

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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KATHRYN KNOWLTON, et al.,

Plaintiffs,

vs.

Case No. 2020CV01660

CITY OF WAUWATOSA,  
CITY OF WAUWATOSA CHIEF OF  
POLICE BARRY WEBER, in his  
individual capacity, DENNIS  
MCBRIDE, in his individual  
capacity, and JOHN DOES  
OFFICERS in their  
individual capacities,

Defendants.  
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Examination of BARRY WEBER, taken at the instance  
of the Plaintiffs, under and pursuant to the applicable  
Statutes or Rules of the Court, before LEAH R. MILLER,  
Notary Public in and for the State of Wisconsin, at  
Knowlton Law Group, LLC, 7219 West Center Street,  
Wauwatosa, Wisconsin, on May 13, 2021, commencing at 9:03  
a.m. and concluding at 5:53 p.m.

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A P P E A R A N C E S:

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appeared on behalf of the Defendants.

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1 P R O C E E D I N G S:

2 MS. MOTLEY: Good morning. So my name is  
3 Kimberly Motley. I'm here with co-counsel, Milo Schwab,  
4 as well as Kate Knowlton. Doing the videography today  
5 is Madeline Schweitzer, and our court reporter is Leah  
6 Miller. In terms of housekeeping, we want you to be as  
7 comfortable as possible. If you need a break, just say  
8 you need a break. That is fine. I don't know if they  
9 showed you where the restrooms are.

10 MR. WEBER: They showed me, yes.

11 MS. MOTLEY: What we are going to do is, today  
12 we are conducting the deposition of Barry Weber, Chief  
13 of Police in Wauwatosa, Wisconsin. Today is Thursday  
14 May 13th, 2021. The time is 9:04 a.m. The Case No. is  
15 20CV1660. This is a civil action pending in Federal  
16 District Court in the Eastern District of Wisconsin. So  
17 you're here, Chief Weber -- do you prefer Chief or  
18 Mr. Weber?

19 MR. WEBER: It's up to you.

20 MS. MOTLEY: Okay. I'm just going to call you  
21 Chief Weber, so Chief Weber is here along with his  
22 co-counsel, Jasmyne Baynard.

23 MS. BAYNARD: His attorney.

24 MS. MOTLEY: Sorry, his attorney, Jasmyne  
25 Baynard. What did I say?

1 MS. BAYNARD: Co-counsel.

2 MS. MOTLEY: Co-counsel, I am sorry, his  
3 attorney, Jasmyne Baynard. I will now ask the court  
4 reporter to swear in the witness.

5 BARRY WEBER, having been called as a witness  
6 herein and having been first duly sworn, was examined  
7 and testified as follows:

8 EXAMINATION

9 BY MS. MOTLEY:

10 Q Now, it's up to you whether or not you want the mask on  
11 or off. I think mostly everyone is fully vaccinated  
12 here, so it is just what your comfort is.

13 A Okay. It doesn't matter to me.

14 Q I'm going to take mine off while I talk.

15 A Okay.

16 Q Could you please state your full name for the record?

17 A Barry Weber.

18 Q And you're aware that you're being deposed in the case  
19 of a federal civil action of Knowlton, et al. versus the  
20 City of Wauwatosa, Case No. 20CV1660 in the Eastern  
21 District of Wisconsin?

22 A Yes.

23 Q Have you ever been deposed before?

24 A Yes.

25 Q In your deposition I'm going to be asking you questions



1 and you're going to be answering them, do you understand  
2 that?

3 A Yes.

4 Q So in order for the court reporter to do what she needs  
5 to do, which is take everything that is being said here,  
6 it's important that, you know, we don't talk over each  
7 other, that your answers are clear, that nods and things  
8 like that don't happen. We want everything to be  
9 verbal, do you understand that?

10 A Yes.

11 Q Now there's a few differences between a deposition and a  
12 typical conversation that I want to make you aware of:  
13 First, the court reporter is attempting to transcribe  
14 everything that we said. In a normal conversation folks  
15 sometimes interrupt, I said that, or talk over each  
16 other. Here, it's important that we wait for each other  
17 to finish saying what needs to be said; second, this is  
18 an oral deposition and an oral transcription. So again,  
19 head nods and things like that won't work here, do you  
20 understand that?

21 A Yes.

22 Q Finally, unlike a typical conversation your answers  
23 today are under oath and this subjects you to potential  
24 criminal charges for perjury, willfully giving false or  
25 misleading or incomplete testimony under oath, do you

1 understand that?

2 A Yes.

3 Q Is there any reason, such as being under stress, a  
4 physical or mental condition, or being under the  
5 influence of any substances that would prevent or limit  
6 you today from giving truthful answers to any questions?

7 A No.

8 Q There is nothing wrong with me asking to repeat a  
9 question or for you to explain a term if you don't  
10 understand. So if you have any questions and you don't  
11 understand the questions, please say that and we're  
12 happy to, you know, repeat the question or to clarify it  
13 if you need that, do you understand that?

14 A Yes.

15 Q Let's see. Sometimes when I ask a question you'll have  
16 partial knowledge but not absolutely certain or complete  
17 knowledge. For example, if I ask you the temperature  
18 right now you couldn't necessarily tell me the exact  
19 temperature, but you could give me an approximate  
20 answer. Even if you couldn't probably know whether it  
21 is really hot or really cold or somewhere in between, in  
22 that circumstances an answer of "I don't know" is not  
23 appropriate, but an answer giving a range or estimate  
24 based on your knowledge with an explanation that it's in  
25 a range or estimate is appropriate, do you understand

1           that?

2       A     Yes.

3       Q     Sometimes we may ask you questions in which you aren't  
4           sure what the answer is but you can reference some  
5           documents and answer the question with certainty after  
6           you reference it; for example, if I asked you the  
7           balance of your checking account on a particular day,  
8           you can ask to see the banking statement before you  
9           answer it. I can then decide whether to show you the  
10          banking statement and get an exact response or not  
11          provide it and get a less exact response, do you  
12          understand that?

13      A     Yes.

14      Q     Finally, I'm entitled to what are considered complete  
15          answers, that means an answer that is fully and  
16          completely answers my questions; for example, if you had  
17          orange juice, toast, and coffee for breakfast and I  
18          asked you what you had for breakfast, if you answered  
19          "orange juice," that would not be a complete answer and  
20          you would not have properly answered my question.  
21          However, you're under no obligation to answer that  
22          question by telling me what you had for lunch even if it  
23          was a more interesting meal, do you understand that?

24      A     Yes.

25      Q     Do you have any questions before we begin?

1 A I do not.

2 Q Thank you. All right, Chief, could you please state  
3 what your current position is right now?

4 A Chief of Police for the City of Wauwatosa.

5 Q How long have you been the Chief of Police for the City  
6 of Wauwatosa?

7 A Just about 31 years.

8 Q And you've been in law enforcement since, I believe,  
9 1984, correct?

10 A 1973.

11 Q Could you please tell us what your positions have been  
12 since 1973?

13 A I started my career as a dispatcher down in Illinois for  
14 a couple years, and then I became a police officer in  
15 Wood Dale, Illinois, when I was 21 years' old.

16 THE COURT REPORTER: What was the name of the  
17 city?

18 THE WITNESS: Wood Dale. In 1984 I left to  
19 become a police chief and public safety director in  
20 Missouri. I was there for two years, and then I went to  
21 Iowa as a police chief for four years, and then in 1990  
22 I came to Wauwatosa.

23 BY MS. MOTLEY:

24 Q Are you from Illinois?

25 A I am.

1 Q Where?

2 A I was born in Chicago, raised in the suburbs.

3 Q So you've been in Wauwatosa since what year?

4 A 1990.

5 Q What are some of your duties as police chief?

6 A My job is to administer the police department.

7 Q What does that mean?

8 A I always tell people my job is not to run the police  
9 department but to see the department runs well.

10 Q About how many law enforcement officers do you have with  
11 the Wauwatosa Police Department currently?

12 A When we are at full strength it is about 100, right now  
13 I think we're at 90.

14 Q What does "full strength" mean?

15 A That we have all the authorized positions filled.

16 Q And 100, you have 90 full-time officers right now?

17 A Correct.

18 Q Do you know the breakdown in terms of the gender  
19 breakdown in terms of the officers you have?

20 A I believe we have about 10 or 11 female officers, almost  
21 ten percent.

22 Q Okay. Do you know the ethnic breakdown of the officers  
23 that you have now?

24 A I don't. We have African-American officers, we have  
25 Asian officers, and we have Latino officers. What the

1 exact numbers are I don't know.

2 Q Do you know the sexual orientation breakdown of the  
3 officers that you have?

4 A I would not have any idea.

5 Q And could you please explain a little bit more about  
6 what your job duties are? I understood what you said,  
7 but just specifically.

8 A Our department is divided into three bureaus,  
9 administrative bureau, operations bureau and the medical  
10 complex bureau: The operations encompasses patrol and  
11 detectives, the administrative bureau is usually the  
12 clerical employees, budgeting, you know, dispatch  
13 center, and then the medical complex bureau, recently we  
14 have undertaken to provide law enforcement services at  
15 what used to be the county grounds, Froedtert,  
16 Children's, and so on, so we have a separate captain  
17 that is in charge of that bureau. So there's three  
18 bureaus, each of them headed by a captain, the captains  
19 report to me.

20 Q So you have three bureaus and three captains?

21 A Correct.

22 Q Who are your captains?

23 A Luke Vetter is the operations captain, second in  
24 command, Gary Gaberich (Phonetic) is an administrative  
25 captain, and Jack Morrison (Phonetic) is the medical

1 complex captain.

2 Q Okay. And let's see. In terms of the Wauwatosa Police  
3 Department, do you have any special sort of teams, I  
4 know there's a special response team, but how is -- what  
5 teams do you have within the department?

6 A Well, SRT, which is special response team, mainly they  
7 are known to do more tactical things than other  
8 departments, they call them SWAT teams, but it has  
9 always been the SRT team. We have the special  
10 operations group, SOG as we call it, that is usually  
11 narrowly focused on violent crime or whatever special  
12 things that need to be done. We have school resource  
13 officers that are assigned, you know, I don't know if  
14 you call them a team, but they work on the community  
15 support unit. We have the motorcycle patrol team, the  
16 motor unit as it's called. We have sensitive crimes,  
17 that is within the detective bureau but a couple  
18 officers are specialties in sensitive crimes. There's  
19 probably more, but I don't --

20 Q Okay.

21 A That is generally what it is.

22 Q Okay. As Chief of Police for Wauwatosa, who do you  
23 report to?

24 A I report to the mayor by statute, and the city  
25 administrator is the day-to-day operations of the city,

1 and then there's also five police and fire commissioners  
2 that are appointed. They oversee the hiring and firing  
3 and promotions.

4 Q And so you report to the mayor by statute, what do you  
5 mean by that?

6 A I once asked the city, or the city attorney years ago --

7 Q That would be the city attorney, Alan Kesner?

8 A No, this was years ago, it was an older city attorney,  
9 Harry Guerke (Phonetic), he has been long-retired, at  
10 the time I had a mayor and a city administrator that  
11 weren't always in agreement. I said, I am getting one  
12 thing from one and another set of rules from another,  
13 what do I do here? He said by statute it's the mayor.  
14 If the mayor tells you to do something, you follow what  
15 the mayor tells you to do.

16 Q Okay. So then it goes, mayor is who you report to, and  
17 then under him is the city administrator?

18 A The city administrator is appointed by the common  
19 council members. So he does not report to the mayor at  
20 all. It's always better if they work together, and  
21 usually they do, of course Mayor McBride and Jim  
22 Archambo work together very well I believe, and Jim  
23 Archambo has been the city administrator for about  
24 15 years, so I work very well with him. I always, in my  
25 career I have more contact with the city administrators



1 because they do the day-to-day operations of the city,  
2 and then on more things, if it's a bigger policy issue  
3 or whatever, we talk to the mayor.

4 Q Do you also report to the city attorney at all, or is he  
5 in this sort of --

6 A No, he's not, he is considered a department head as am  
7 I, so he's a peer if anything else.

8 Q And by "he," we are talking about Alan Kesner,  
9 K-E-S-N-E-R. Now, in terms of your relationship with  
10 the police and fire commission, do report to them at  
11 all?

12 A No, not by any statute or anything, but since I have  
13 come to Wauwatosa, our police and fire commissioners  
14 always have a monthly meeting. Some cities, they don't  
15 do that. They have meetings as needed. Our  
16 commissioners have always had a monthly meeting, whereas  
17 the police chief and the fire chief come to the  
18 meetings, usually tell the things that are going on in  
19 the police and fire department, what our concerns are,  
20 what needs we have, we bring to them any personnel  
21 issues, or we need to have another test because we are  
22 running low on the eligibility list, or we need to  
23 promote somebody, or whatever, so we do monthly  
24 meetings.

25 Q Do you report at all to the common council?

1 A I do not.

2 Q What's your relationship with them as chief?

3 A Common council of course sets the -- you know, they're  
4 the legislators of the city. So when they have had  
5 questions and so on, we have always been responsive to  
6 the common council, but if the common council members  
7 asked me to do something, or they have a favor or  
8 whatever they need to have done, I do my best to  
9 accommodate them, but I always let the city  
10 administrator know what I'm doing too.

11 Q And the city administrator is appointed by the common  
12 council, and the mayor is the head of the common  
13 council. So those are kind of the liaison to the common  
14 council?

15 A Yes.

16 Q In terms of the fire and police commission, their role  
17 is simply to support you with the hiring and firing of  
18 officers?

19 A Hiring and firing, that's their main role, yes.

20 Q What are their other roles?

21 A They have to approve promotions, they have to approve  
22 discipline too. Since not all discipline is a  
23 termination, but if I suspended somebody, even if it was  
24 for a day's suspension, if that officer wanted to appeal  
25 it, it would go to the police and fire commission to

1           decide.

2       Q     What are the ranges of disciplines that an officer can  
3           receive?

4       A     It could be what we call an on-shift discipline, where  
5           the supervisor says, hey, don't do that again, and the  
6           supervisor just keeps his own file on it, so just so he  
7           or she knows, I've disciplined officer so-and-so, so it  
8           is an on-shift discipline; it could be a verbal  
9           reprimand, in which case they usually document that as,  
10          I reprimanded so-and-so; a written reprimand, which  
11          would come, usually that would come from my office then,  
12          and then I can decide whether I'm going to issue the  
13          reprimand, not issue a reprimand, I could go something  
14          more severe, something lighter; and I could do  
15          a suspension, you know, we have a range, we have a  
16          policy that says what the range of suspensions for  
17          different offenses are; and if I wanted to terminate  
18          somebody, I would have to request that to the police and  
19          fire commission.

20      Q     Okay. In terms of the police and fire commission's role  
21           now, they're currently looking for a new chief of  
22           police, correct?

23      A     Yes, they are.

24      Q     Congratulations on your retirement, by the way, it must  
25           be something you're looking forward to.

1 A You better believe it.

2 Q In terms of that, are you participating in the process  
3 where they're trying to find a new police chief?

4 A Not at all.

5 Q Do you know who they're sort of talking to?

6 A I have no idea. I don't want to be anywhere associated  
7 with that because I don't want to give any appearances  
8 that I have had anything to do with it. So I know they  
9 were doing interviews this week Zoom interviews.  
10 They've been in closed session for that, so we have know  
11 idea who the candidates are.

12 Q And the President of the Police and Fire Commission is  
13 Dominic Leone, correct?

14 A Leone, correct.

15 THE COURT REPORTER: Leone is --

16 MS. MOTLEY: L-E-O-N-E, Dominic,  
17 D-O-M-I-N-I-C.

18 BY MS. MOTLEY:

19 Q And Mr. Leone, he used to be a Wauwatosa police officer,  
20 correct?

21 A Correct.

22 Q And how long -- when did he retire, do you recall, or  
23 when did he leave?

24 A He was the personnel lieutenant, and he left -- I've got  
25 to think for a second -- I would guess it would be in

1 the last 10 to 15 years that he left.

2 Q Do you know how long he was under the Wauwatosa Police  
3 Department?

4 A Well, he retired after his full career. He spent most  
5 of his career there, he had been in another city prior  
6 to that for a short time, but he probably was in  
7 Wauwatosa at least 20 or 30 years.

8 Q And a full career is how long?

9 A Usually takes you to the age of, 53 is the normal  
10 retirement age if you have a lot of years in there.

11 Q So he was reporting to you at some point as an officer,  
12 I mean, you were his supervisor?

13 A Ultimately as the chief, when I started in Wauwatosa he  
14 was the sergeant, so he reported to a lieutenant, then a  
15 captain, and the captain reported to me, but, yes.

16 Q And you're the chief policy maker of Wauwatosa Police  
17 Department, correct?

18 A Yes.

19 Q And you've been the chief policy maker your whole time  
20 as police chief, correct?

21 A Yes.

22 EXAMINATION

23 BY MR. SCHWAB:

24 Q Can you tell me what -- for every policy of the police  
25 department, is it written down?

1 A We try to put most things in writing, but there's always  
2 the unwritten things that, you know, just are pretty  
3 much standard; what comes to mind, you know, when you're  
4 done with your shift, put gas in the car for the next  
5 shift. It's not a written-down policy, but it's the  
6 courteous thing, make sure you clean the thing out or  
7 whatever, say you have a muddy dog you had to pick up,  
8 clean it up so the next guy doesn't have to do it.  
9 Those are the kinds of things that are probably not in  
10 writing, but just the things that are done.

11 Q So there are some understandings --

12 A Understandings, yes.

13 Q -- of this is how we operate?

14 A Yes.

15 Q Can you tell me what policies there are in writing?

16 A There's books of policies, so I would --

17 Q Is it in the range of 100, 200?

18 A At least I would imagine around 100, I don't know.

19 Q Have you written -- have you been involved in preparing  
20 each one of those?

21 A No, I have not.

22 Q Do some of them predate you?

23 A Probably, yes.

24 Q Okay.

25 A We update them; for instance, the use of force policy,

1 the department always had a use of force policy. We  
2 update it every two years, so, I mean, there was a use  
3 of force policy when I started in 1990, but we've  
4 updated it since then.

5 Q When you say "we update," can you tell me who that is?

6 A That would it be the organization, but I don't author  
7 every policy. That is where the captains and  
8 lieutenants, they get together, and they say, here is  
9 what we need to do. The captain will usually assign  
10 somebody who has an expertise in the area. For  
11 instance, if we have the use of firearms policy, the  
12 officer in charge of the range would be the one to  
13 probably have the best knowledge of that, so he or she  
14 will author that policy, and it goes up through the  
15 chain, and ultimately I have to sign off on it.

16 Q Okay. And you sign off on every policy?

17 A Yes.

18 Q When you say, "expertise," can you tell me a little bit  
19 more about that, what types of expertise you guys look  
20 for in who is going to author these policies?

21 A For instance, the firearms, we have people that have  
22 been to armory school, they know how to take the firearm  
23 apart, put it back together, they have more expertise  
24 than I would ever have because I am not interested in  
25 firearms to that degree. So if we have to say, well,

1 here is what happens if your weapon malfunctions or  
2 whatever, and then clearly how it gets repaired, who  
3 would be in charge of that. We send people to a lot of  
4 different trainings schools. I don't go to the same  
5 training schools that police officers go to. For  
6 instance, you know, if you are going to authorize the  
7 use of force policy, they go to the latest school that  
8 would come up with the latest court decisions and so on  
9 regarding use of force, and then you will incorporate  
10 those in the policy, so they do that.

11 MS. MOTLEY: Can I ask one question?

12 EXAMINATION

13 By MS. MOTLEY:

14 Q I think this is an important question, and you gave this  
15 question a little last week, could you please tell us  
16 what associations you're a part of?

17 A Sure. I'm a senior member of the Milwaukee County Law  
18 Enforcement Executives Association, which is the  
19 Milwaukee -- (inaudible).

20 THE COURT REPORTER: Milwaukee, what chiefs?

21 THE WITNESS: Milwaukee County Police Chiefs,  
22 I'm a senior member of the Wisconsin Police Executives  
23 Group, which are the cities, the larger cities of 20,000  
24 population or more, I am a senior member of that. I am  
25 a member of the Wauwatosa Rotary Club, Chamber of



1 Commerce, FBI National Academy Associates, I think that  
2 is it --

3 Q The International Association?

4 A The International Association of Chiefs of Police, I am  
5 a life member of that.

6 MS. MOTLEY: Thank you.

7 EXAMINATION

8 BY MR. SCHWAB:

9 Q Can you tell me who drafted or most recently updated  
10 your use of force policy?

11 A No, I would have to look at the policy to see. What the  
12 policy will say is "prepared by" or "authored by,"  
13 so-and-so, and I would sign it.

14 Q Okay. And you said that the person, the training for,  
15 for example, for the person that would have developed  
16 the use of force policy would be primarily based on  
17 they're working with a firearm, is that correct?

18 A (Inaudible).

19 THE COURT REPORTER: Wait.

20 BY MR. SCHWAB:

21 Q I don't mean to put words in your mouth. I apologize.  
22 Please, correct me if I'm wrong?

23 MS. BAYNARD: She's trying to take down  
24 everything that you're saying, please try to slow down.

25 THE WITNESS: Sorry. Somebody who is, might

1 have that interest; for instance, an officer who is  
2 involved with the SRT team, special response team,  
3 they're interested in tactical things, so we would  
4 responsible send them to a tactical training school.  
5 They would know more about how to clear a room, you  
6 know, if you suspect somebody might be in there. I  
7 wouldn't have the knowledge of how to clear the room.  
8 That is what I would get if I go to certain training.  
9 Those people who have those interests would get that  
10 extra training, and they are the ones that are in the  
11 best position to author policies.

12 BY MR. SCHWAB:

13 Q Do you have a deescalation policy?

14 A Yeah, we do.

15 Q Tell me about the trainings that you go to.

16 A The trainings I go to?

17 Q Yes.

18 A I usually go to executive level trainings. The  
19 International Chiefs Association has a conference every  
20 year, an annual conference. The first one I went to was  
21 in 1987, so I have gone to many of those. There is a  
22 wide variety of topics that are at those things related  
23 to -- it could be almost any topic related to patrol  
24 work, committing of crimes, ethics, executive  
25 leadership, I have been to many of those, and there's a

1 training coming up for -- the police executive group  
2 does a training every year. There's one, a summer  
3 training, I will be presenting a topic, I will be  
4 talking about leadership several weeks after I retire.  
5 I have gone to the FBI National Academy, I think I went  
6 to also the Law Enforcement Executive Development as  
7 part of the national academy several years later. So  
8 they are usually more leadership related rather than  
9 tactical or patrol.

10 Q Okay. How often are those?

11 A If wanted to, you could go to training every day. There  
12 is always something that comes out. Those particular  
13 ones are usually -- the IACP one, and police chiefs --

14 THE COURT REPORTER: I-A --

15 THE WITNESS: The IACP, International  
16 Association of Chiefs of Police, there is an annual  
17 training, I go to that one. The PEG (Phonetic) group is  
18 annual, and when we have our quarterly meetings, there's  
19 usually some sort of training or information that is  
20 provided for the afternoon.

21 BY MR. SCHWAB:

22 Q Okay. And are they one-day trainings, or are these  
23 events multi-day, week?

24 A It depends. The IACP ones are usually four-day  
25 trainings. The PEG group thing that I will be going to

1 is usually a three-day training, but when we have the  
2 quarterly meeting there is usually a one-and-a-half day  
3 training.

4 Q And like you said, they're primarily focused on  
5 leadership and being the head of an organization as  
6 opposed to policy or practice?

7 A Yes.

8 Q Do you ever overrule or change policies that come from  
9 the captains that write them?

10 A If the policy is being proposed before I sign off on it,  
11 if I have any questions, I would get those answers  
12 before I would sign the policy. If we have done  
13 something, you know, and there's an incident, we'll  
14 check to see if the policy was followed, and from there,  
15 I will decide what I need to do.

16 Q Okay. But during the process, when something comes up  
17 to your desk, a biannual update, what is the process you  
18 go through to determine if that is a good policy for the  
19 Wauwatosa Police Department?

20 A Since we update every policy usually every other year, I  
21 look at the policy and say, what are the changes since  
22 last time? I like the changes we made, what are we  
23 doing differently than we did before? If it is like, we  
24 looked at everything and nothing has changed, okay. If  
25 we look at something, here is the paragraph that was

1 changed, or here is the wording that was changed, okay,  
2 but I give my answers at that time.

3 Q Do you ever propose changes?

4 A Probably.

5 Q Can you give me an example of something you remember  
6 from the last couple years that you authored that was  
7 not a change that was offered to you?

8 A Nothing that would stand out because I just did so many  
9 things that come across my desk, and I say, I am not  
10 happy with this, let's get this -- give me an answer on  
11 that, and let's change this, or whatever.

12 Q Do you document any of this process?

13 A No.

14 Q Do you determine -- are you the one that determines who  
15 should make the policy?

16 A Not usually, not usually.

17 Q Who does that?

18 A Usually the captain will do that.

19 Q So in this case, or in most of these cases it would be  
20 Vetter?

21 A If it's an operational policy it would be Vetter. If it  
22 has something to do with like, for example, the asset  
23 forfeiture policy, the administrative captain would do  
24 that because that is their area of expertise. And if  
25 the captain doesn't do it himself, he might delegate it

1 to one of the lieutenants that works in his area.

2 Q Okay. But the people that do draft these policies, do  
3 you work to make sure that they attain the proper  
4 certification or training themselves?

5 A Can you say that again?

6 Q How do you ensure that the people that are drafting  
7 these policies have the proper education or knowledge?

8 A They are certified police officers, so we send them to  
9 the schools, so they are certified to do what they do.

10 Q How old are most of the people that draft these  
11 policies?

12 THE COURT REPORTER: I am sorry, I missed  
13 that.

14 BY MR. SCHWAB:

15 Q How old are most of the people that draft these  
16 policies?

17 A There's a wide variety of ages, since I am the oldest  
18 one in the organization, if I look at our supervisors,  
19 probably most of them are in their 40's.

20 Q Okay. And so their primary training is presumably  
21 decades old?

22 A If they are in their 40's, many of them came to us when  
23 they started in their 20's.

24 Q So that's the training that you're relying upon?

25 A Yes.

1 Q Is law enforcement a changing field?

2 A Yes.

3 Q How do you make sure that your people that are preparing  
4 your policies are on top of these changes?

5 A We send them to regular updates. Every officer is  
6 required to have 24 hours of training every year. We  
7 usually exceed what the minimum requirements are by the  
8 state.

9 Q Can you tell me what those 24 hours are?

10 A 24 hours is inservice training, different technical  
11 colleges offer inservice training. Sometimes we use  
12 inservice from the colleges, and sometimes we develop  
13 our own curriculum for what we feel is needed.

14 Q Has that change on year-to-year basis?

15 A It does.

16 Q This year, what is your training policy?

17 A I don't know what the curriculum is for this year's  
18 training policy as I'm not involved in that.

19 Q Do you know if this year's policy was developed by the  
20 police department, or if it is outsourced to one of the  
21 colleges?

22 A I don't.

23 Q Do you know last year's?

24 A I don't know.

25 Q Who would know?

1 A Probably most of the police officers have to participate  
2 because they know where they have to go to the training.  
3 Captain Gabershoe (Phonetic) was just promoted to  
4 captain recently. He was the training officer the last  
5 several years, he would know.

6 Q Is he the one who would make the determination on  
7 whether you guys would develop your own curriculum or  
8 would outsource to another school?

9 A I believe so.

10 Q And before he was promoted to captain of admin, what was  
11 his role?

12 A He was the lieutenant in charge of personnel and  
13 training.

14 Q And is that with operations?

15 A I believe so, we switched our organizational chart  
16 around recently, but I believe that was part of  
17 operations.

18 Q Okay. I'm assuming that it doesn't change significantly  
19 from year-to-year, but can you run me through what a  
20 typical year of continuing training or education would  
21 look like, you know, this many hours to this type of --  
22 I don't know, I don't even know how to ask the question.

23 A Well, I don't know how to answer the question either.

24 Q Okay, how many hours with a gun?

25 A With a gun?



1 Q Yes.

2 A There's more than just the inservice training because we  
3 qualify them on the range usually quarterly.

4 Q Of the 24 hours, we'll talk about the other side later,  
5 how many of those 24 hours are training with a gun?

6 A I don't believe we normally use our firearms in that  
7 type of training.

8 Q Is that type of training in classroom? In these  
9 24 hours, are the officers in a classroom, or --

10 A Usually, it could be some practical things regarding how  
11 to conduct a stop or whatever. There might be, I don't  
12 know. There's such a wide variety of topics. I do  
13 remember one year we learned how to deal with autistic  
14 people. There's a lot of officers that are going to the  
15 crisis intervention training, so we have such a wide  
16 variety of topics, it just varies year-to-year.

17 MR. SCHWAB: Okay.

18 EXAMINATION

19 BY MS. MOTLEY:

20 Q In terms of your policies, how do you archive the old  
21 policies that you update, or do you archive --

22 A That's a question the secretary would probably answer  
23 better than I would. We have so many files that have  
24 been over the years, and many of them out as we are  
25 preparing for construction, but I believe many of them

1           are online, so I don't know if they converted them from  
2           paper to online, or they just put the old ones aside, I  
3           don't know.

4       Q     But just pretty much, online, they keep the current  
5           policy?

6       A     The current policies are online.

7       Q     But they don't put how this was updated necessarily?

8       A     I don't believe so.

9       Q     And your secretary is Mary Weger?

10      A     Correct.

11      Q     W-E-G-E-R?

12      A     Yes.

13      Q     And in terms of writing policy, you mentioned that you  
14           get the assistance of captains, is that correct?

15      A     Yes.

16      Q     And do you get the assistance of outside counsel to  
17           write your policies also?

18      A     There's been times like when we've updated our use of  
19           force policies, for example, we might ask the city  
20           attorney for their opinion, or sometimes we've asked --  
21           I don't know if we asked somebody from the district  
22           attorney's office, maybe one of the guys might know who  
23           is doing the policies or whatever, but we usually get an  
24           opinion from somebody.

25      Q     Do you get the help, assistance of Gunta Law Office to

1 write any of your new policies?

2 A I don't know if we used them, because they've --

3 Mr. Gunta himself has presented many trainings.

4 Q Any of the lawyers within, Jasmyne, Kyle, Ann, Greg,  
5 Wolfgang, did any of them help you write policies?

6 A Because they do things for the CVMIC, which is the --  
7 insurance company --

8 THE COURT REPORTER: I am sorry, what  
9 insurance company?

10 THE WITNESS: The CVMIC --

11 MS. BAYNARD: It is City and Village Mutual  
12 Insurance Company.

13 THE WITNESS: Because they've made  
14 presentations to us over the years, and Mr. Gunta has  
15 said, here is what you need to incorporate if you're  
16 going to terminate somebody, here is what you need to  
17 do, here is what the standards of just cause are, I have  
18 attended those kinds of trainings, but specifically to  
19 Gunta's office, I don't know if that is true or not.

20 BY MS. MOTLEY:

21 Q Have you ever gone to Cermelle's office to write your  
22 policies?

23 THE COURT REPORTER: Whose office?

24 BY MS. MOTLEY:

25 Q John Cermelle's office, C-E-R-M-E-L-E?

1 A I have not.

2 Q Do you know if anyone has ever gone to John Cermelle and  
3 his law firm to write any policies?

4 MS. BAYNARD: Calls for speculation, go ahead.

5 THE WITNESS: Not to my knowledge.

6 BY MS. MOTLEY:

7 Q In terms of, you heard what Attorney Schwab said about,  
8 you know, policing changes so you have to write new  
9 policies. I imagine when you first became a police  
10 chief you didn't have to write a social media policy?

11 A That's true.

12 Q Right, and now you have a social media policy?

13 A Yes.

14 Q Right, and I noticed that you have now a racial  
15 profiling policy?

16 A Yes.

17 Q That's a new policy that was just enacted in February of  
18 this year?

19 A No, I believe we had a racial profiling policy prior to  
20 that probably for a good many years, we just updated it  
21 though.

22 Q Do you know when you first created the racial profiling  
23 policy?

24 A I'm guessing it's been at least ten years, but I don't  
25 know.

1 Q Do you know why you created the racial profiling policy?

2 A Yeah, we did, that was something that was taken up by  
3 the Wisconsin General Assembly. They were looking into  
4 racial profiling after, I think it may have been after  
5 the Frank Jude thing, that was something that happened  
6 in Milwaukee. So we thought, well, let's do this and  
7 make sure that we're following the standards and  
8 following the law and that we don't do that.

9 Q Did you -- it was simply because of the Wisconsin  
10 General Assembly that you enacted the racial profiling  
11 also?

12 A I think that is when it became more prominent, but we  
13 may have had it before that, I don't know.

14 Q Do you believe that racial profiling is an issue with  
15 the Wauwatosa Police Department?

16 A I do not.

17 EXAMINATION

18 BY MR. SCHWAB:

19 Q Before there was a racial profiling policy written down,  
20 do you know if was there an informal policy?

21 A If it was an informal policy it would have been just  
22 like what I said, with the understanding that we don't  
23 do those thing kinds of things, nor have we ever.

24 Q Have you ever punished someone for racial profiling in  
25 your 31 years as police chief?

1 A I don't think so.

2 Q Has there ever been a complaint of racial profiling in  
3 your 31 years?

4 A Yes.

5 Q How many?

6 A Formal complaints that have reached my office, probably  
7 three or four.

8 EXAMINATION

9 BY MS. MOTLEY:

10 Q Has there been any informal complaints against racial  
11 profiling in your office?

12 A No, because anything that would have come to my office I  
13 would have documented. Informal complaints, many times  
14 if there's informal complaints, somebody would call the  
15 police department and says, "I want to talk to a  
16 supervisor -- "

17 THE COURT REPORTER: Can you slow down a  
18 little bit? "Call the police department and says -- "

19 THE WITNESS: I am sorry. Somebody would call  
20 the police department and said, I want to talk to  
21 somebody because I feel I have been profiled. So  
22 usually they would get the supervisor on duty, the  
23 sergeant or lieutenant, and says, "here is what the  
24 problem is," then that would be an informal policy,  
25 maybe there is a misunderstanding, I don't know. If

it's something that rises to a higher level, then it would it be brought to my attention.

## EXAMINATION

BY MR. SCHWAB:

Q Can you tell me when it would be determined and who would determine it doesn't need your attention?

A Sometimes there is a misunderstanding on a traffic stop, for example, so if there's a complaint that is made, the lieutenant, just ask through the lieutenant working, who says, here is what the officer says, and here is what the problem was. And oftentimes a person says, "okay, I had a misunderstanding or whatever and I'm satisfied," so then that would not usually reach my desk. If the person wasn't satisfied, then it probably would come to me.

Q Okay.

## EXAMINATION

BY MS. MOTLEY:

Q Is it common practice when someone puts in a complaint about racial profiling that you talk to that citizen, or do you solely talk to the officers?

A Any complaint that has come to my attention, usually, usually there's probably something that fell through the cracks, some complaint over the years, the citizen always gets a response from me, whether it is a phone

1 call back, a letter in the mail, whatever, they always  
2 get a response to they're complaint.

3 Q Do you talk to them? You said three or four complaints,  
4 right, that have come to your desk. Let's break those  
5 down, all right, do you recall, do you know if it is  
6 three or four?

7 A I don't. 31 years is a long time, but I have talked to  
8 so many people about so many things over the years, and  
9 very rarely does anybody -- I think in most cases,  
10 people had a complaint, they talked to me about it, gave  
11 them the explanation, you know, if they weren't happy,  
12 they could appeal my decision to the police and fire  
13 commission or whatever.

14 Q Do you advise them of that, that they can appeal your  
15 decision if you choose not to move forward with it?

16 A If they ask me.

17 Q So they have to ask if there is an appeal procedure for  
18 you to give them that information?

19 A I am usually able to get everybody -- you know, I think  
20 I can talk to most people to solve their problem, most  
21 people want to be heard, especially as to what their  
22 issue was. And if they say, "well, I disagree with  
23 you," okay, you disagree. And if they say, "well,  
24 nothing is going to change and I'm satisfied, but I  
25 understand we can agree to disagree," okay. If they



1 say, "who can I appeal this to," you can take it up with  
2 the police and fire commission if you would like.

3 Q For those where you have written a letter to them with  
4 regards to their complaint on racial profiling, have  
5 they ever contacted you back and said, "hey, I want to  
6 know what the appeal procedure is"?

7 A I don't think they have. I don't think they have, and  
8 my letters are usually pretty direct because oftentimes  
9 we know exactly, we have it on either a squad video, or,  
10 you know, something happened at the mall where it is on  
11 video, and I have told people even in my letters, you  
12 know, the problem was that you caused the problem. If  
13 you would have followed the directions that the officer  
14 told you to do, there wouldn't have been a problem.

15 Q To be fair with those mall videos, there is no audio  
16 with those videos, correct, usually?

17 A Usually, I think some they do have it.

18 EXAMINATION

19 BY MR. SCHWAB:

20 Q You just said that if the person had done just what they  
21 were supposed to it wouldn't a problem, is the officer  
22 ever to blame?

23 A Sure.

24 Q In your experience, have you had officers who were to  
25 blame?

1 A Yes.

2 Q What do you do in those situations?

3 A If an officer -- if it is something that warrants  
4 discipline, then I will discipline.

5 EXAMINATION

6 BY MS. MOTLEY:

7 Q Can you give an example?

8 A There's -- well, I don't want to just take things out of  
9 the air without something specific.

10 EXAMINATION

11 BY MR. SCHWAB:

12 Q In the three or four times that people came forward with  
13 criticism or complaints of racial discrimination or  
14 profiling, was the officer ever to blame?

15 A I don't think so.

16 Q Is the Wauwatosa Police Department racist?

17 A No.

18 Q Has it ever been?

19 A Not in the 31 years that I have been part of it.

20 Q Are there any racist officers?

21 A Not to my knowledge.

22 MS. BAYNARD: Calls for speculation, go ahead.

23 THE WITNESS: Not to my knowledge.

24 BY MR. SCHWAB:

25 Q Do you know if any of your officers engaged or were

1 participants in the January 6th insurrection on the U.S.  
2 Capitol?

3 A I'm not aware of any.

4 Q Are you aware that there were law enforcement officers  
5 that invaded the Capitol that day?

6 A Just from what I read in the papers.

7 Q When you learned that, did you wonder if any of your  
8 officers had done so?

9 A No.

10 Q You didn't even wonder?

11 A No.

12 Q If you found out your officer had done that, what would  
13 you do?

14 A I think I probably would have started an internal  
15 investigation to find out exactly what transpired.

16 Q If you found out an officer trespassed into the Capitol  
17 to -- with nooses hanging outside, your reaction would  
18 be investigation?

19 MS. BAYNARD: Objection, misstates his prior  
20 testimony. Go ahead.

21 THE WITNESS: I'm sorry?

22 BY MR. SCHWAB:

23 Q If you found out that an officer of yours had invaded  
24 the Capitol with that group of people while there were  
25 nooses outside, your response would have been to start

1 an investigation?

2 A Probably.

3 Q But you never inquired?

4 A No.

5 EXAMINATION

6 BY MS. MOTLEY:

7 Q Do you have if any officers with the Wauwatosa Police  
8 Department took off of work during the capital  
9 insurrection?

10 A I don't know.

11 Q Did you check?

12 A I did not.

13 EXAMINATION

14 BY MR. SCHWAB:

15 Q Would it upset you if one of your officers had  
16 participated?

17 A If they went to a protest, I don't think I would be  
18 upset; if they participated in something that was  
19 illegal, I would be.

20 Q In your 31 years, have any of your officers broken the  
21 law?

22 A I'm sure.

23 Q Do you know of any?

24 A Yes.

25 EXAMINATION

1 BY MS. MOTLEY:

2 Q Were they prosecuted for breaking the law?

3 A Yes.

4 Q Which officer was this?

5 A Bill Bari ski (Phonetic) years ago, he has been retired  
6 for a long time, he was arrested for a drunk driving  
7 while he was off duty.

8 EXAMINATION

9 BY MR. SCHWAB:

10 Q Have any of your officers ever been arrested for violent  
11 crimes?

12 A I think there was an officer many, many years ago that  
13 was involved in domestic violence with his wife.

14 Q Okay. So you said you don't believe any of your  
15 officers are racist?

16 A I don't think so.

17 EXAMINATION

18 BY MS. MOTLEY:

19 Q Do you know if any of your officers have ever been  
20 prosecuted? You said there was a domestic violence  
21 incident, correct?

22 A Yes.

23 Q Do you know if that officer was actually prosecuted for  
24 that?

25 A I don't know if that particular officer was --

1           ultimately -- (inaudible) -- for another offense.

2           Q     Do you know if any of your officers have ever been  
3           prosecuted for sexual assault of a child?

4           A     I don't know that. I would hope not.

5           Q     Do you know if any of your officers had a relationship  
6           with a minor child on your watch?

7           A     Yes.

8           Q     Did you forward that issue to the district attorney's  
9           office in Milwaukee County?

10          A     Yes.

11          Q     Do you know if they ultimately prosecuted that officer  
12          for that?

13          A     They did not.

14          Q     Did you provide any consequences to that officer for his  
15          relationship with a child?

16          A     Yes.

17          Q     What was that consequence?

18          A     The child was -- it was a consensual relationship with a  
19          young woman that was three months from her 18th  
20          birthday.

21          Q     You do know according to law if you are under 18 there  
22          is no consensual relationship?

23          A     I understand that.

24                         THE COURT REPORTER: We have to wait.

25                         BY MS. MOTLEY:

1 Q You do understand according to the law if you are under  
2 the age of 18 in the State of Wisconsin that there is no  
3 consent to having a relationship with an adult person no  
4 matter how close they are to being 18 years' old?

5 A I understand that, that is why I terminated him.

6 Q Which officer was this?

7 A Dennis Slagle, S-L-A-G-L-E.

8 Q Did you inform the police and fire commission of your  
9 termination of Mr. Slagle?

10 A Yes, because there was a hearing that was conducted.

11 Q What year was that?

12 A It was in the early 90's -- no, wait, let's see, I think  
13 it was 22 years ago, whatever year that was, because my  
14 son was the same age and the girl was in his class.

15 EXAMINATION

16 BY MR. SCHWAB:

17 Q How old was the officer?

18 A 40-ish.

19 EXAMINATION

20 BY MS. MOTLEY:

21 Q What about Jeffrey Newman (Phonetic), was he ever -- how  
22 did he leave the office?

23 A He quit.

24 Q Why did he quit?

25 A I think it was not really for him, and he was involved

1 in the incident with the sword.

2 Q Antonio Gonzalez (Phonetic)?

3 A Gonzalez, and so he left.

4 Q Do you think he was a good officer?

5 A He was average at best.

6 Q Why did he get the medal of valor for being an average  
7 officer?

8 A Because he did the right thing when he was called upon  
9 to do the right thing.

10 Q What was the right thing?

11 A Stop the threats.

12 EXAMINATION

13 BY MR. SCHWAB:

14 Q Who was the threat to?

15 A The threat was to Officer Mensah and to Officer Newman.

16 Q So they got a medal of valor for protecting themselves?

17 A Correct.

18 EXAMINATION

19 BY MS. MOTLEY:

20 Q Do you recall who recommended that medal of valor?

21 THE COURT REPORTER: You guys keep switching  
22 back and forth and I am having a really hard time  
23 keeping up with who is asking the question.

24 (Discussion had off record.)

25 BY MS. MOTLEY:



1 Q Now, with the awards that officer received, are those  
2 also approved by the police and fire commission?

3 A No.

4 Q So you're the person that approves those?

5 A Yes.

6 Q Okay. Who was the officer that was -- who lied to you  
7 about how fast -- in your deposition of Steve Buscevi ch  
8 (Phonetic) on September 21st of 2020 you mentioned an  
9 officer was lying to you about the speed that he was  
10 going, do you recall who that officer was?

11 A There were two, there was -- I think that one was Steve  
12 Thompson, but there has been another officer prior to  
13 him, a few years prior, Jeff Butterfield (Phonetic), who  
14 I terminated. I terminated both of them because both of  
15 them had said things that weren't true about the way  
16 they were driving, and of course we have the in-car  
17 videos, and also -- there's also like a black box on an  
18 airplane, it shows the speeds that the officers were  
19 driving that didn't add up to what we saw.

20 Q Did you get the approval of the police and fire  
21 commission to terminate those officers?

22 A Thompson was still on probation so I did not need that,  
23 Butterfield, I think he resigned before I could  
24 terminate him.

25 Q But you have the right as the police chief to terminate

1 an officer without going to the police and fire  
2 commission, correct?

3 A No, if they're on probation I do. If they're not, I  
4 have to request the termination.

5 Q Okay. You have to?

6 A Yes.

7 Q According to what?

8 A I think it's under 62.13.

9 THE COURT REPORTER: What?

10 THE WITNESS: I think it is under 62.13 of the  
11 statutes, the police chief pretty much requests, you  
12 know, a termination.

13 BY MS. MOTLEY:

14 Q Under 62.13 it states that a person may appeal a  
15 termination, but it doesn't say that the chief has to  
16 get the permission of the police and fire commission --

17 A Sure.

18 Q -- in order to, so you can terminate someone without the  
19 permission of the police and fire commission?

20 A By that, yes, but every officer who is getting  
21 terminated usually requests an appeal.

22 Q Right, but you can do that?

23 A I could say I am recommending -- I am recommending your  
24 termination.

25 Q Right, but then they're terminated, and then it's up to

1 the officer to appeal that termination?

2 A Yes.

3 Q I imagine a 40-year-old officer who is having a  
4 relationship with a 17-year-old probably wouldn't fight  
5 you terminating them?

6 A No, he did.

7 Q He did, and it had went to the police and fire  
8 commission?

9 A Yes.

10 Q And they agreed with your recommendation?

11 A Yes.

12 Q Is an officer lying to you, is that grounds for  
13 termination?

14 A If I find out about it, yes.

15 Q And you mentioned that you terminated an officer for  
16 lying about the speeds that he was going?

17 A Yes.

18 Q And you are aware of the fact that Officer Mensah has  
19 lied about the speeds he was going with the chase on the  
20 highway for an incident that happened at Home Depot?

21 MS. BAYNARD: Objection to the form of  
22 question, compound, irrelevant. Go ahead.

23 THE WITNESS: I think to see that Mensah was  
24 lying I think I would have to look at the contextual  
25 frame of what he said and what he was aware of.

1 BY MS. MOTLEY:

2 Q He said he was going 75 miles per hour when in fact he  
3 was going 110 miles per hour, do you recall that?

4 A I guess, yes.

5 Q And you would agree that an officer should know the  
6 difference between going 75 miles per hour versus  
7 110 miles per hour?

8 A I certainly would hope so.

9 Q Did he receive any consequence for lying about his  
10 speed?

11 A I believe his Lieutenant wrote up his review of the  
12 incident, and I don't know if we disciplined him based  
13 on what the recommendation was.

14 Q Do you recall what the discipline was?

15 A I don't.

16 Q Do you recall who recommended discipline?

17 A I think at that time Mensah worked for Lieutenant Freena  
18 (Phonetic), so it probably would have come from  
19 Lieutenant Freena.

20 EXAMINATION

21 BY MR. SCHWAB:

22 Q In your 31 years has any officer at the Wauwatosa Police  
23 Department used excessive force?

24 A Yes.

25 Q When was the most recent time that you were aware of?

1       A     You know, I look at a lot of police reports, sometimes I  
2       see them and say, well, did we do the right things on  
3       those. One particular incident does come to mind. I  
4       remember when I first started there was an officer who  
5       roughed up a kid behind the mall. This was back in 1990  
6       right after I first started, so that officer, I was  
7       going to take him to the commissioners, and he resigned.  
8       I think I would look at -- use of force incidents are  
9       such that you look at every one of them very carefully  
10      to see. You know, it's easy for me to say, "that  
11      shouldn't have happened," but I wasn't there. So I  
12      always try to put it into context, you know, under the  
13      circumstances were they trying to do right things. That  
14      is always where the judgment comes in too.

15     Q     You mentioned use of force reports, is it the policy of  
16     the Wauwatosa police that every time an officer uses  
17     force they're required -- he or she is required to write  
18     up a report?

19     A     I believe that is part of the reports that we do, yes.

20     Q     What would be the consequence of not producing a report  
21     or preparing a report?

22     A     Depends on the circumstance, if it was just an  
23     oversight, or deliberate, indifference, or whatever, I  
24     don't know.

25     Q     And if an officer grabbed someone by the arm, would that

1           require a use of force report?

2       A     Probably not.

3       Q     Okay. I assume anytime they pull their gun out of their  
4           holster, that would require a use of force report?

5       A     No.

6       Q     No?

7       A     No.

8       Q     If they pointed their gun at someone, would that?

9       A     Not necessarily.

10      Q     So if they point their gun at someone but they don't  
11           fire their gun, they're not required to prepare a use of  
12           force report?

13                   MS. BAYNARD: Objection as to the form, it  
14           misstates prior testimony. Go ahead.

15                   THE WITNESS: It depends on the circumstance.  
16           You know, if an officer pulls their gun out, you know,  
17           if you are searching a factory and you get an alarm at  
18           2:00 in the morning and you are searching a factory, if  
19           you're going in there you probably have your gun out.

20           BY MR. SCHWAB:

21      Q     Sorry, let me restate. If an officer points their gun  
22           at someone is that a use of force?

23      A     It probably at some point is a use of force, or they  
24           wouldn't do that, yeah.

25      Q     But just the mere pointing a gun at someone, you

1           wouldn't say it's absolutely always a use of force?

2       A     I would not say absolutely, depends on the circumstance.

3       Q     Is the use of pepper spray on someone a use of force?

4       A     Yes.

5       Q     If they were to use pepper spray, an officer would be  
6           required to produce a report?

7       A     Yes.

8       Q     If they were to fire a pepper ball, would that require  
9           for every firing if -- I apologize. Do you guys use --  
10          does the Wauwatosa Police Department utilize pepper  
11          balls, pepper ball guns?

12      A     We did.

13      Q     When?

14      A     October.

15      Q     Okay. For the use of that munition, would a use of  
16          force report be required?

17      A     A report would probably be required.

18      Q     Do you maintain the logs of how many pepper balls you  
19          have in stock?

20      A     I don't know if we do. That would be something that I  
21          would not look at.

22                       MR. SCHWAB: Fair enough.

23                                       EXAMINATION

24   BY MS. MOTLEY:

25      Q     What do you mean by it would probably be required, that

1 | they would have put in a use of force report?

2 A Because when they were used in October there was so many  
3 incidents happening simultaneously I don't know what the  
4 report was, if it was an individual that they used it  
5 toward, or toward a group of people, or if it was, like,  
6 one major incident, I'm not sure.

7 Q So spraying someone with mace, is that considered use of  
8 force?

9 | A I believe so, yes.

10	Q	Would they have to write a report about that?
----	---	---

11	A	Normal I y, yes.
----	---	------------------

12 EXAMINATION

13 BY MR. SCHWAB:

14 Q Do you guys use beanbag rounds or 40-millimeter less  
15 legal munitions?

16	A	We have beanbag rounds.
----	---	-------------------------

17 Q Okay. And for every time one of those is fired, would  
18 you expect a use of force report?

19	A	Yes.
----	---	------

20	Q	Would you require a use of force report?
----	---	--

21 A I would think so.

## 22 EXAMINATION

23 BY MS. MOTLEY:

24 Q If someone was tackled to the ground, is that considered  
25 use of force?



1 A Yes.

2 Q Would that officer be required to write a report about  
3 that?

4 A Write a report, yes.

5 Q If someone is handcuffed on the ground and they bring  
6 them to the ground, is that considered use of force?

7 A If they're brought to the ground, yes.

8 Q Would a report be required?

9 A Probably.

10 Q Probably?

11 A Well, if somebody -- again, it depends on what the -- if  
12 you give me a specific situation, I could probably tell  
13 you.

14 Q Who makes the determination when a report is supposed to  
15 be written and when it's not?

16 A Depending on what the officer says the circumstances  
17 that they were faced with, they would determine if they  
18 needed to write a report or document the incident.

19 Q And the officer would verbally tell you this?

20 A He wouldn't tell me. He would probably talk to his  
21 supervisor and see what the supervisor would say, "yes,  
22 I would write a report on that."

23 Q Does every officer have to tell their supervisor, "do I  
24 need a report to write about this situation," or do they  
25 automatically -- are they trained to write reports?

1 A If you're taking somebody to the ground, you would write  
2 a report on it.

3 Q That is an automatic, if you take somebody to the  
4 ground, you write a report?

5 A Yes.

6 Q They wouldn't have to talk to the supervisors about  
7 that?

8 A Probably not.

9 EXAMINATION

10 BY MR. SCHWAB:

11 Q Do you have a policy on when reports are required?

12 A Probably, I mean, it's not something I would normally  
13 look at.

14 Q Okay. And, you know, so just to repeat, would you say  
15 there is some discretion the police officers are given  
16 in determining when to write a report?

17 A Yes.

18 Q Is that discretion ever reviewed?

19 A Yes.

20 Q What happens if an officer decides not to write a report  
21 when they should have?

22 A If the supervisor becomes aware of that, the supervisor  
23 might say, "why wasn't there a report written? You need  
24 to document that one."

25 Q What if an officer used his firearm, fired several

1 rounds at someone, and didn't write a report?

2 A That would be unacceptable.

3 Q Would you fire that person?

4 A Depends on why they didn't write the report.

5 Q If an officer pointed a gun at someone's head and didn't  
6 file a report, what would your response be?

7 A I would want to know the circumstances of why, what  
8 happened and why there was no report.

9 Q Do you believe a report would be required if an officer  
10 pointed a gun at someone's head?

11 A I believe so.

12 EXAMINATION

13 BY MS. MOTLEY:

14 Q When would a report be required if an officer just  
15 pointed a gun at someone?

16 A Not necessarily. I can give you an example: Getting an  
17 alarm at a house, so maybe we think the owner is on  
18 vacation or whatever, but maybe they came back, we  
19 don't -- you know, they didn't tell us they're back, and  
20 we see somebody in the house. The officer is going to  
21 say, "I don't know, it might be a burglar," I am going  
22 to pull the gun out. "Wait a minute, hey, I live here."  
23 No harm, no foul done, that would be the example I was  
24 thinking of.

25 Q If an officer pulled out their Taser on someone, would

1           they be required to write a report?

2       A     No.

3       Q     If an officer uses their Taser, would they be required  
4           to --

5       A     It changes then, yes.

6                   THE COURT REPORTER:   You guys have to slow  
7           down.

8                                   EXAMINATION

9       BY MR. SCHWAB:

10      Q     Can you tell me why you wouldn't require a report, or  
11           something even as simple as, I was inspecting -- or,  
12           rather for that example you just provided, why not have  
13           them write up a two-line report just to document that?

14      A     You mean what I said about the house?

15      Q     Yes.

16      A     Because if they went to the homeowner is saying -- they  
17           would then get on the radio and say, "it's the  
18           homeowner, no further action is required, back in  
19           service."

20      Q     But in this scenario, the police officer even  
21           momentarily pointed a gun at someone?

22      A     It was documented when he called it in on the radio.

23      Q     Okay.

24      A     That the officer required it.

25      Q     Have you ever had a gun pointed at you by an officer?

1 A By an officer?

2 Q Yes.

3 A No. No, other than training exercising, though.

4 Q Do you believe that having a police officer point a gun  
5 at you is a frightening experience?

6 A Yes.

7 Q Even if you were a homeowner coming home early from  
8 vacation?

9 A Yes.

10 Q How do you train your officers on use of force?

11 A Every -- I said earlier, we quarterly train on the  
12 shooting range, and the use of force policy is gone over  
13 each time, and the shift supervisors regularly go over  
14 the use of force policy with officers, in some of the  
15 other trainings that we do and send people to, use of  
16 force is covered a lot.

17 Q Let's dig in. So when an officer comes onto the force  
18 they have to undergo, I assume, some significant  
19 training?

20 A Yes.

21 Q Who -- are you the one that decides where they receive  
22 their training?

23 A No.

24 Q Who decides that?

25 A That would be the personnel training lieutenant.

1 Q Does the Wauwatosa Police Department have a police cadet  
2 school ?

3 A We do not.

4 Q And where do -- is there a school that you send your  
5 officers to?

6 A There is two of them that we go to, we can go to either  
7 MATC or WCTC.

8 Q MATC and --

9 A WCTC in Waukesha, Waukesha County Technical College.

10 EXAMINATION

11 BY MS. MOTLEY:

12 Q With regards to the hiring of your officers, what are  
13 some of the things that your officers are required to do  
14 before you hire them? Let's start with the training  
15 first, are they required to do any training before  
16 they're hired?

17 A Not before they're hired.

18 Q Are they required to fill out a job application?

19 A Yes.

20 Q Is this online or by paper?

21 A I think it's online now.

22 Q Online now, when did it become online?

23 A Probably the last couple of years.

24 Q But before that there was a paper application?

25 A Yes.

1 Q Are they required to have any level -- educational  
2 level?  
3 A Yes.  
4 Q What is that?  
5 A I think you have to have at least 60 credit hours or a  
6 two-year degree.  
7 Q Okay. 60 credit hours, is it towards anything specific?  
8 A Toward -- towards an associate degree.  
9 Q Okay. Could it be, like, an associate degree in  
10 culinary skills?  
11 A Yes.  
12 Q Oh, really?  
13 A I think so.  
14 Q It could be an associate's degree in art?  
15 A Yes.  
16 Q So they just need some type of associate degree?  
17 A State of Wisconsin's requirements, yes.  
18 Q Are they required to go through any psychological  
19 assessments?  
20 A Before we hire them they are.  
21 Q Are there any specific doctors that they're supposed to  
22 go to?  
23 A We direct them who to go to.  
24 Q Who do you go to?  
25 A We use Dr. Rick Bauman (Phonetic).

1 Q Any other doctors?

2 A No.

3 Q Why do you direct them to go to Dr. Rick Bauman?

4 A We have used Dr. Bauman for approximately 25 or  
5 26 years, and he does pre-hiring assessments. He  
6 does -- we send somebody -- we send our people there  
7 before they promoted too, and I have a lot of faith in  
8 him because he's been -- he's been a, a business  
9 psychologist, I believe. And I have always had a good  
10 working relationship with him, and I find that the  
11 candidates, we send them there, the ones that we usually  
12 get back we're pretty satisfied with.

13 Q What does the pre-hiring assessment consist of?

14 A Whatever battery of psychological tests that he deems is  
15 appropriate, I don't know, I think they still use the  
16 MMPI, but what exactly he does, I don't know. I didn't  
17 go to him.

18 Q What is the MMPI?

19 A Minnesota Multiphasic Personality Inventory.

20 Q Okay. So he does that assessment with them for  
21 pre-hiring?

22 A Yes.

23 Q Do you know if he does any other testing or  
24 psychological assessments?

25 A He does a battery of tests, usually the candidates are



1           there for like four hours. He does a battery of tests,  
2           and then he does an interview with them too.

3       Q     Okay. So do you know what is included in the battery of  
4           tests?

5       A     I don't.

6       Q     Do you also look at, if officers come from -- I mean, I  
7           assume a lot of officers have had a prior job before.  
8           Do you also call their previous employer?

9       A     Yes.

10      Q     Okay. And if an officer comes from another law  
11           enforcement agency, do you get their personnel file?

12      A     Usually we're allowed to look at it, the agencies don't  
13           always release them, but usually we're allowed to look  
14           at it.

15      Q     Has there ever been a time you weren't allowed to look  
16           at an officer's personnel file that you hired?

17      A     No, if I can't see the personnel file then I wouldn't  
18           hire them.

19      Q     Have you ever sort of -- were you ever able -- sorry.  
20           Did you ever not hire an officer based on their  
21           personnel file?

22                   MS. BAYNARD: Objection to the form of the  
23           questi on. Go ahead.

24                   THE WITNESS: I have not hired officers based  
25           on their background that had we find out.

1 BY MS. MOTLEY:

2 Q Okay. Do you do a criminal background check on officers  
3 before you hire them?

4 A Yes.

5 Q Do you do -- and when have you had a situation where you  
6 haven't hired an officer based on their prior employment  
7 experiences?

8 A That's happened numerous times in every process that we  
9 do.

10 Q About how long does this process take a person, you  
11 know, once they fill out their application, how long  
12 does the hiring process take?

13 A It varies, but it could be anywhere from three to  
14 six months depending on what we've got going and when we  
15 schedule the tests, and physical agility and things like  
16 that.

17 Q What time period, or at what point do you tell that  
18 officer or the prospective candidate that they should go  
19 ahead see Dr. Bauman?

20 A When we do that we've given them a conditional offer of  
21 employment. Prior to that, they have to go to the  
22 assessment center that we run, they have to go through  
23 the physical agility tests we give them, they have to  
24 undergo the police and fire commission interviews, and  
25 then I believe they also have to -- we get their

1 background check done by the detective bureau.

2 Q With regards to the assessment center, what does that  
3 include?

4 A That is -- in the early days they used to always be  
5 given written tests.

6 Q What is "the early days," just so we're clear?

7 A I mean the previous ten years, prior ten years. We  
8 would administer the state test, it is a state test for  
9 law enforcement officers, a written test, we found that  
10 we were hiring people, and still they wouldn't always  
11 make it through probation, so I wasn't happy with that  
12 test. We started doing an assessment center that some  
13 agencies seemed to have more success with. So the  
14 assessment center consists of -- you know, it's like an  
15 all-day situation where the candidate comes in and has  
16 to undergo a number of different scenarios, and -- for  
17 instance, we will do a simulated traffic stop, we'll do  
18 a simulated thing where you deal with a person who  
19 doesn't follow any of your directions at all, how are  
20 you going to interact with them.

21 Now, people who have been police officers  
22 before are usually -- are better at that than somebody  
23 who has never been a cop before -- I don't know what to  
24 do with the guy, and what he can and can't do, we will  
25 get a sense of how well they communicate, how well they

1 can take charge of the situation, and the assessors are  
2 made up of members that are trained in our own  
3 departments, so there is like a dozen people that are  
4 assessors.

5 Q Do those assessors, do they write their results out of  
6 the assessment?

7 A I believe they do.

8 Q Okay. And so these are -- they're assessment reports, I  
9 assume?

10 A I don't know what they do because the day after the  
11 assessment center they all get together and go through  
12 everything. It takes them all day long to go through  
13 what the reports are. And usually when we do the  
14 assessment center we only invite, like, a dozen people  
15 to participate as candidates. If we can get six or  
16 eight people out of those dozen to move on, we're doing  
17 good.

18 Q After this assessment, which is written, right?

19 A You mean by the assessors?

20 Q By the assessors, yes.

21 A I think they write something down.

22 Q After -- you think they write something down?

23 A Yeah, I don't see what they write.

24 Q So who does see what they write?

25 A That -- within that group, maybe the personnel and

1 training lieutenant would see that, but I don't.

2 Q So is there anything else that happens at the assessment  
3 center aside from simulations?

4 A Whatever things they're putting them through, I don't  
5 know.

6 Q Are there any written tests that officers have had to go  
7 to in the assessment center within the last seven years?

8 A I don't think so.

9 Q So there's no tests with the assessment center other  
10 than simulations?

11 A Whatever they do in that, you know, as I said, it's an  
12 all-day process. It's usually more -- because if you go  
13 for a written test somewhere, it takes you maybe an hour  
14 or two to do that written test. The assessment center  
15 is all day. So when I have hired people I have asked  
16 them, "how was that," they said, "man, that was tough."

17 Q And there's a physical component also?

18 A Yes.

19 Q -- with the assessment --

20 A Yes.

21 THE COURT REPORTER: Please wait until you  
22 have finished with her question before you answer.

23 BY MS. MOTLEY:

24 Q In terms of the physical component, what is required  
25 with that?

1 A They do something that is based on some standard, and I  
2 don't know what the standard is, but they have to do a  
3 certain amount of pushups and sit-ups within a certain  
4 amount of time, and do a mile-and-a-half run that has to  
5 be completed in a certain amount of time.

6 Q And is it the same assessors that assess the simulation  
7 that also assess the physical component?

8 A No.

9 Q So the different assessors for the physical component,  
10 do they, you know, write down the results of the  
11 physical?

12 A They probably have a checklist, it is usually run under  
13 the direction of the personnel training lieutenant.

14 Q Okay. So they have a checklist?

15 A Probably.

16 Q Okay. Then after that, there's the PFC better views?

17 A Yes.

18 Q Okay. I'm just trying to understand the process. I  
19 want to be a Wauwatosa police officer, I fill out an  
20 application, who reviews it?

21 A The personnel lieutenant does.

22 Q Then based on those applications, the personnel  
23 lieutenant determines who they want to bring to the  
24 assessment center?

25 A Yes.

1 Q Then the person goes to the assessment center first?

2 A Right.

3 Q Or, are they interviewed first?

4 A I think they do the physical agility before the  
5 assessment center.

6 Q So they do physical agility, and then that is assessed  
7 by people that will have a checklist?

8 A It's pretty much pass/fail.

9 Q But there's some checklist that they have?

10 A I think so.

11 Q I assume, like, if a person came in to run a mile in,  
12 like, three minutes, you would want to write that down?

13 A Yes.

14 Q Because it was just remarkable, or even if it was  
15 unremarkable?

16 A Right.

17 Q So that is documentation. Then after the physical  
18 component, then they go to the assessment center?

19 A Yes.

20 Q That's where the simulations happen?

21 A Yes.

22 Q By -- multiple people are assessing that?

23 A Yes.

24 Q And then they sort of note what happens in the  
25 assessment center?

1 A Yes.

2 Q And then, after that, do they then go to the PFC  
3 interviews?

4 A That would be the next phase.

5 Q Okay. And is it every member of the PFC that  
6 participates in the interview process?

7 A We need a minimum -- there's five commissioners, we need  
8 a minimum of three. Usually all five are there,  
9 sometimes you might have only four if somebody had a  
10 conflict or whatever, but most of the time it is all  
11 five.

12 Q And those interviews, I assume they take notes of --  
13 note what the candidate is saying in writing?

14 A They have notes that they work from, and they have a  
15 score sheet that, they evaluate that interview. They  
16 turn that into the personnel lieutenant right then and  
17 there at the end of the interview, and then he gathers  
18 them up so he can total scores so they know by the end  
19 of the night if we have enough people to make the list,  
20 or who passes or who did not pass.

21 Q Do the candidates ever have a one-on-one interview with  
22 you or your team within the Wauwatosa Police Department?

23 A Not at that point.

24 Q So then after that, so they've created sort of this file  
25 on candidates, I assume, with the assessment center



1 notes, with the checklist, with the physical, and also  
2 with the PFC interviews?

3 A Yes.

4 Q And after that, then what happens if a person is deemed  
5 to be appropriate to the move to the next stage?

6 A They are put on the list, the police and fire commission  
7 certifies a list. Let's just say we have ten people on  
8 the list, I can hire them in any order that I want to.  
9 Usually what we'll do is we will hire them, because we  
10 will say these first two people are certified, this  
11 person is not. He's farther down the list, but WCTC has  
12 a recruit academy coming up in, say, July 1st, let's get  
13 that person up there because it is going to take him ten  
14 weeks to go to the academy. So we kind of jockey them  
15 that way. It is always -- (inaudible) -- there is a  
16 reason I don't want to hire somebody, you know, because  
17 we do the background checks, if there is somebody, just  
18 say, you know what, we didn't realize he had a drug  
19 problem or whatever, then I have to notify the police  
20 and fire commission I would like to take this person off  
21 the list, and they want to know what the reason is. You  
22 tell them, and then that person is removed.

23 Q Okay. So then you look at the list and you determine  
24 who you are certifying, is that a certification through  
25 the Wauwatosa Police Department, or through the IEFC?

1 A The PFC is the one that has to certify the list.

2 Q Okay. And then you look at that list?

3 A Well, I sit in on those interviews with the PFC. I'm  
4 able to see them at that time too.

5 Q Do you also create notes on the candidates when you are  
6 sitting in on interviews?

7 A For myself I do.

8 Q You don't give it include it -- you don't give it to the  
9 personnel lieutenant like the -- (inaudible) --

10 A No, nor does the PFC know what I say. I always did it,  
11 because I'm just mainly a guest of the PFC at those  
12 meetings. You know, it is their interview. I sit there  
13 and I write my notes, and I want to see if we're on the  
14 same page, because if they say, well, this is our top  
15 candidate, I like to see how I rated them too. Lately  
16 enough, we're close, not always right on, but close.  
17 And there is times when you get somebody -- of course,  
18 with the assessment center the candidates are all vetted  
19 ahead of time.

20 In the older days with the written tests you  
21 didn't know who you were getting. You know, sometimes  
22 you would get somebody who had just barely made the list  
23 and has got a 70 percent. I remember there was times I  
24 would sit in that meeting, and you would have a  
25 candidate with a 30-minute interview, and after five

1 minutes it is like, well, this is going to be a long  
2 half-hour, other people after a half-hour we wish we  
3 could talk to them longer because they're so good.

4 There's times I remember the commissioners are looking  
5 at me like, how this did this guy even make it through.

6 Q Typically you and the PFC usually come to the same  
7 conclusion, so good or not good, it sounds like?

8 A Yes.

9 Q After that process of them being certified, then what is  
10 the next step, or let's just talk about the candidates  
11 that make it to the next step.

12 A The next step would be the background check.

13 Q And who conducts that?

14 A It is under the direction of our detective bureau.

15 Q Okay. So then say a person passes the background check,  
16 this is a criminal background check, right?

17 A We do one that is criminal.

18 Q What else?

19 A We do credit checks. We talk to references. We talk to  
20 jobs where they've worked because they've listed  
21 everything. We have talked to neighbors where they've  
22 lived to see, you know, many of them are young people  
23 and were renting places, so we want to know if they were  
24 problematic as tenants. We find out everything we can  
25 about people, we have their physical transcripts too.

1 Q Is this the stage where for those that were prior law  
2 enforcement officers, where you would ask for their  
3 personnel file?

4 A Yes.

5 Q And this whole check is documented, correct?

6 A Yes.

7 Q And this goes in that same sort of file for a candidate?

8 A Yes.

9 Q So then after, let's say a person passes all the checks,  
10 then what is the next stage?

11 A After the background check, then they would bring it to  
12 me and say, you know, can you sign off on it and we can  
13 go ahead and hire this person, and it is just getting in  
14 where we have the time slots and so on, yes, then we'll  
15 schedule them for the psychological tests.

16 Q That is when you recommend Dr. Bauman to them?

17 A We send them to Dr. Bauman, and they also schedule them  
18 for the drug screen and what doctors do.

19 Q And who pays for their assessment with Dr. Bauman?

20 A The city does.

21 Q How much does that cost?

22 A I think it's about \$450 or \$500 right now.

23 Q An hour?

24 A No, for the test.

25 Q Oh, for the test?

1 A Per person.

2 Q Do you know how long that assessment with Dr. Bauman  
3 takes?

4 A It's about four hours.

5 Q And that is when he does the MMPI?

6 A Yes.

7 Q After, what does passing with Dr. Bauman look like?

8 A I get a report back from Dr. Bauman, and he has --  
9 there's a bar chart on it that just lists people, like,  
10 their maturity level, how they are, how quickly they  
11 work, what is their intelligence, whatever he assesses.  
12 Then he gives me some strong points, and, say, that  
13 these are considered good points for somebody, you know,  
14 he's confident, or he works well with people, here is  
15 some points that might be areas that you want to work at  
16 with them. And it will say, you know, he lacks  
17 self-confidence, so by working with him some more, or  
18 making him -- his training officers aware that he might  
19 need strength in this area, he would be a good officer  
20 or whatever.

21 In the final paragraph, it is always a  
22 recommendation that, I consider so-and-so a strong  
23 candidate, above average candidate, average candidate,  
24 capable, sometimes you have got to try to read those  
25 words.

1 Q It sounds like Dr. Bauman creates comprehensive written  
2 report that you receive, is that accurate?

3 A Yes.

4 Q Within that report, he doesn't share this person is on  
5 this type of medication, or he doesn't share personal  
6 medical information with you?

7 A Never.

8 Q That would be a violation of HIPAA, is that why?

9 A Yes.

10 Q Have you ever asked Dr. Bauman for anyone's personal  
11 medical information?

12 A Never.

13 Q I assume you haven't done that because of HIPAA, is that  
14 accurate?

15 A I think it would be wrong to do even if we didn't have  
16 the HIPAA, so I have never done it.

17 Q Then the report, the comprehensive written report he  
18 gives you has virtually no medical information in it,  
19 correct?

20 A Correct.

21 MS. MOTLEY: Sorry, I did that. We were  
22 saying the same thing at the same time.

23 BY MS. MOTLEY:

24 Q So the comprehensive written report by Dr. Bauman that  
25 you receive has no medical information in it?

1 A Correct.

2 Q And then, have you ever had a candidate who failed the  
3 the assessment by Dr. Bauman and then you didn't go  
4 forward with them?

5 A Yes.

6 Q Is that typical?

7 A No, it's unusual.

8 Q Okay. And then does Dr. Bauman give you -- is this sort  
9 of like -- does Dr. Bauman give you a letter to say,  
10 basically a cover letter to that report?

11 A No, I think it's all part of the same report.

12 Q Okay. Does he typically e-mail you these documents, or  
13 does he mail them to you, how do you receive them?

14 A If he knows I'm in a hurry because we've got a deadline  
15 to meet, the school or whatever, he'll e-mail me the  
16 report, but then it's always followed up with the hard  
17 copy in the mail.

18 Q But you'll always get an e-mail and a hard copy?

19 A One or the other -- well, I always get the hard copy.  
20 Sometimes he will give me a phone call and say, I got  
21 the report done, give me a call. I will call, and he  
22 will say, "here is what I am recommending, here is why,  
23 and here is the good points, blah, blah, blah, I will  
24 have the report to you by Friday."

25 Q You'll always get at least a hard copy?

1 A Always.

2 Q And the e-mail at some point, depending on your wanting,  
3 how fast you want to the move forward with the  
4 candi date?

5 A Always a hard copy, and a phone call and/or e-mail.

6 MS. MOTLEY: Okay.

7 MR. SCHWAB: Are you about done with --

8 MS. MOTLEY: Go ahead. Thank you.

9 EXAMINATION

10 BY MR. SCHWAB:

11 Q One quick followup or question on Dr. Bauman's  
12 pre-hiring assessments: Does he perform a psychological  
13 assessment?

14 A I believe that is what it is, yes.

15 Q So beyond -- you mentioned intelligence and confidence,  
16 does he go into more detail, you know, on concerning  
17 traits?

18 A I don't know exactly what he does with people.

19 Q What would you -- what type of assessment or finding  
20 would you find disqualifies someone from being a police  
21 officer?

22 A Well, I think if it's somebody who does not have the  
23 intellectual capabilities to even complete the reports,  
24 or cannot communicate adequately, I would probably want  
25 to disqualify them right there, but then if we have to



1 do a background check, because if there's any question  
2 in my mind to do a background check, and we look at the  
3 school transcripts, that would probably let me know that  
4 the person is not at the level that we would prefer.

5 Q Putting aside intelligence and hard skills like the  
6 ability to communicate or school grades or past crimes,  
7 does someone's emotional state have a bearing on whether  
8 they can be a good police officer?

9 A Yes.

10 Q Can someone be too interested in violence to be a police  
11 officer?

12 A I would think so.

13 Q And in your experience in 31 years have you ever seen  
14 someone that was too interested in violence that applied  
15 to be a police officer?

16 A Probably.

17 EXAMINATION

18 BY MS. MOTLEY:

19 Q And with regards to all of these documents for hiring  
20 somebody, if a person is hired, then, you know, that's  
21 the file that is created on them, correct?

22 A Yes.

23 Q And those documents, they're not destroyed, right?

24 A I don't think so.

25 Q Okay. And are those documents, most of them are hard

1 copy or electronic?

2 A I think most them are hard copy.

3 Q Okay. When's the last time -- and then after that, do  
4 they then get invited to go to the police academy?

5 A If we're going to hire them and they are not already  
6 certified, then they would to be the academy.

7 Q What do you mean "not already certified," the  
8 certification, the PFC, is that what you're talking  
9 about?

10 A No, many of the candidates nowadays will go and pay for  
11 themselves to go to WCTC or MATC to get certification.  
12 It costs the candidates \$2,000 or \$3,000 to get that,  
13 but because there is so many people that -- the jobs are  
14 competitive, a lot of times there's just many suburbs,  
15 especially, that don't want to the pay \$2,000 or \$3,000  
16 to have to go to school, so they won't even look at the  
17 candidates. A lot of these young people will go and pay  
18 to have themselves certified.

19 We've always done a combination of both. I  
20 hate to spend the \$3,000 on to send somebody to school  
21 for 11 weeks, but if it is a great candidate and we  
22 think they have potential, then we are willing to do it.

23 Q So you send them to WCTC or MATC?

24 A Usually WCTC is our preferred.

25 Q So then is that considered police academy?

1 A Yes.

2 Q How long does that process take?

3 A I think the academy is 11 weeks.

4 Q And what do they learn in that 11 weeks?

5 A They learn everything. A lot of times you get somebody  
6 who has never been a cop before. They learn everything.  
7 They'll cover the legal things, they'll cover the use of  
8 force, learn how to handle a firearm, they will cover  
9 first aid, the criminal investigations, all the things,  
10 evidence collecting, traffic, how to drive a squad car,  
11 how to conduct a traffic stop, everything.

12 Q You would agree that with your policies a lot of them  
13 are unique to Wauwatosa police officers?

14 A Probably.

15 Q Okay. So within that 11-week time period, is that when  
16 candidates receive your specific policies, or how does  
17 that work?

18 A No, once they graduate the academy, they come back to us  
19 and they're in field training, as we call it FT0, field  
20 training officer, and then they ride with somebody for,  
21 it is usually about four or five months, that is when  
22 they learn about the culture and how we do things in  
23 Wauwatosa.

24 Q That is why it takes about three to six months, this  
25 whole process?

1 A The three to six months to get through the interview  
2 process, and once you're hired if not certified think  
3 11 weeks at the academy, which is just short of three  
4 months, and another four or five months riding with  
5 somebody, a year goes by pretty quick.

6 Q So if you determine that someone is an appropriate  
7 candidate to move forward to going to WCTC, who pays for  
8 that?

9 A The city does.

10 Q Okay. And that is \$3,000 per person?

11 A Right, plus if we've hired the person and we're sending  
12 them there, we're paying their salary.

13 Q You're paying salary on top of that?

14 A Yes.

15 Q And when do they get certified by the LESB, the Law  
16 Enforcement Standards Bureau?

17 A Upon graduation from the academy.

18 Q At WCTC?

19 A Yes.

20 Q Typically the candidates that go to WCTC that you send,  
21 are they in classroom with other police trainings from  
22 our jurisdictions as well?

23 A Yes.

24 Q But for the candidates for Wauwatosa, once they  
25 graduate, then within that four-month time period after

1 is when they receive your specific policies?

2 A Yes.

3 Q How are you doing?

4 A As far as what?

5 Q Do you need a break?

6 MS. MOTLEY: For the record it is now  
7 10:38 a.m. Why don't we break until 11:00, or  
8 ten minutes to 10:50.

9 (A recess was taken.)

10 BY MS MOTLEY:

11 Q The time is 10:52 a.m. Just one last question on this  
12 subject: So the process as you outlined for hiring new  
13 Wauwatosa police officers, this is the process that has  
14 existed within the Wauwatosa Police Department for the  
15 last seven years?

16 A Yes.

17 MS. MOTLEY: Thank you.

18 EXAMINATION

19 BY MR. SCHWAB:

20 Q In your time as police chief of Wauwatosa, how many  
21 curfews have you enforced?

22 A Are you talking about all curfews, because there's  
23 always been the curfews for children under the age of 18  
24 or whatever --

25 Q So I assume that is a continuing curfew?

1 A Yes.

2 Q Aside from the children's curfew, before this year,  
3 before 2020, had there ever been a curfew enforced?

4 A Not to my knowledge.

5 Q And this year, or in the last 12 months, how many  
6 curfews have been instituted?

7 A I think two.

8 Q Okay. When was the first?

9 A I thought there was one in May, and then the other one  
10 was in October.

11 Q What was the basis or cause of the May curfew?

12 A That was when we were having people mainly coming from,  
13 down either Burleigh Street or Center Street at high  
14 speeds from Milwaukee, and they were strung out across  
15 the entire road, you know, from the westbound and  
16 eastbound lanes there was speeding. I think that was  
17 when we talked about the curfew, and I don't know if we  
18 had to do anything with the curfew other than it was  
19 just traffic.

20 EXAMINATION

21 BY MS. MOTLEY:

22 Q And just for the record, are you referring to the curfew  
23 of May 31st through June 2nd, 2020?

24 A That is probably it.

25 Q There was a curfew on August 13th as well, correct.

1 A I don't know.

2 MS. MOTLEY: Okay.

3 EXAMINATION

4 BY MR. SCHWAB:

5 Q So were you involved in the planning or declaration of  
6 either of these curfews?

7 A When you say "planning or declaration," I think I may  
8 have recommended that we have a curfew, that would be  
9 the extent of it.

10 Q For May?

11 A Yes.

12 Q And for October?

13 A Same.

14 Q Okay. Whose idea was it to have a curfew? I will  
15 explain a little bit further, did the mayor or the city  
16 council come to you?

17 MS. BAYNARD: For which curfew?

18 BY MR. SCHWAB:

19 Q For the October curfew.

20 A October, no it was probability the opposite, we went to  
21 the mayor.

22 Q So you were the one that had the idea for the emergency?

23 A The police department, yes.

24 Q When you say "the police department," was it your idea,  
25 or was it someone below you?

1 A It would -- again, as I said earlier, I meet with the  
2 captains on a regular basis, and we meet on a daily  
3 basis, so that is probably where it was discussed, and  
4 then I made a recommendation to the mayor after that.

5 Q Do you remember when it was first discussed?

6 A I am guessing sometime around the end of September.

7 Q Towards the end of September?

8 A Yeah, I think so.

9 Q And do you recall if it was you that raised it in  
10 discussing it with the captains, or did the captains  
11 bring the idea to you?

12 A They would have brought the idea to me.

13 Q Do you remember which captain?

14 A No.

15 Q How many captains are there?

16 A There's three, for a while we had four because we had a  
17 transition when Mike Schultz (Phonetic) was retiring a  
18 couple of weeks ago.

19 THE COURT REPORTER: Mike Schultz, I am sorry.

20 THE WITNESS: Yes, Mike Schultz. So that is  
21 when Gaberich (Phonetic) was made captain, so we had  
22 four for the time being.

23 BY MR. SCHWAB:

24 Q You had four for the time being, and what was the fourth  
25 captain the captain of?



1 A Gaberich was made captain, and he was still assigned to  
2 the administrative bureau while he was transitioning  
3 from personnel and training.

4 Q And so you believe it was in late September?

5 A I think so.

6 Q What was the basis of -- why did you decide to recommend  
7 that curfew be instituted?

8 A Because it was anticipated that there would be a ruling  
9 from the district attorney's office on the Mensah  
10 shooting, and we were trying to avoid any repeats of  
11 what happened in Kenosha.

12 Q Okay.

13 EXAMINATION

14 BY MS. MOTLEY:

15 Q So you recommended to institute that curfew based on two  
16 things: What happened in Kenosha after the Jacob Blake  
17 shooting on August 25th, and also based on the decision  
18 of the DA's office regarding the Alvin Cole shooting?

19 MS. BAYNARD: Objection to the form of the  
20 question, misstates his prior testimony. Go ahead.

21 THE WITNESS: What happened in Kenosha, and  
22 also the anticipation of the district attorney's  
23 decision coming out.

24 BY MS. MOTLEY:

25 Q Those were the only two reasons that made you --

1 A Well, yeah, but also seeing what happened in Minnesota  
2 and around the country, you know, we wanted to be  
3 prepared.

4 Q And you're referring to what happened in Minnesota and  
5 around the country with regards to the George Floyd  
6 incident?

7 A Yes.

8 EXAMINATION

9 BY MR. SCHWAB:

10 Q Did you have any threats of violence before suggesting  
11 that this curfew was enforced or was being enacted?

12 A Yes.

13 Q Please tell me about those.

14 A We follow social media, we also utilize things from the  
15 Fusion Center, so when our own people pick up  
16 information on the street, we had also seen what had  
17 happened, you know, even in our own city at the  
18 Cheesecake Factory.

19 Q So before you suggested the institution of a state of  
20 emergency, emergency declaration and a curfew for the  
21 October protest, can you tell me a specific threat of  
22 violence or property that you reviewed?

23 A As I said, I also would be looking at social media to  
24 see the reports coming, and I was also at the Cheesecake  
25 Factory in July, and I saw what had happened in Kenosha,

1 and saw what happened in Minneapolis and Portland and  
2 Seattle.

3 Q Let me just --

4 EXAMINATION

5 BY MS. MOTLEY:

6 Q With regards to the Cheesecake Factory in July, what  
7 happened?

8 A There was a protest by the Cheesecake Factory, and  
9 people went there and also went in the restaurant and  
10 disrupted the business.

11 Q But they didn't destroy any property, correct?

12 A Not at that time.

13 Q And they didn't physically harm anybody, correct?

14 A Correct.

15 EXAMINATION

16 BY MR. SCHWAB:

17 Q When you say you followed social media, do you have a  
18 Twitter account?

19 A I do not.

20 Q Do you have a Facebook account?

21 A No.

22 Q Walk me through -- are you just scrolling through  
23 Facebook every day?

24 A Never.

25 Q Does the Wauwatosa Police Department follow particular

1 people?

2 A I don't know.

3 Q Can you explain to me then when you said you guys follow  
4 social media what that means?

5 A We have a crime analyst, civilian crime analyst, he  
6 follows social media, and he would bring to me, you  
7 know, I would ask him if we had any particular threats  
8 or what is going on, and he would let me know what were  
9 certain things he had seen.

10 Q Were any --

11 EXAMINATION

12 BY MS. MOTLEY:

13 Q Who is your crime analyst?

14 A Dominic Ratkowski.

15 Q And he is from -- he is a Wauwatosa police officer?

16 A No, he is a civilian.

17 Q And the Wauwatosa police office does not pay him to do  
18 this?

19 A No, he is a full-time employee.

20 Q He is a full-time employee with the Wauwatosa Police  
21 Department?

22 A Yes.

23 Q And how do you spell his last name?

24 A R-A-T-K-O-W-S-K-I.

25 Q And how long has he been the civilian that follows the

1 social media on behalf of the Wauwatosa Police  
2 Department?

3 A I think he has been with us about two years.

4 MS. MOTLEY: Go ahead.

5 EXAMINATION

6 BY MR. SCHWAB:

7 Q Was there a particular business that was threatened?

8 A I believe so.

9 Q Can you tell me what business that was?

10 A Mayfair Mall, the shopping mall, and the Cheesecake  
11 Factory.

12 Q And this was threatened in anticipation of the Alvin  
13 Cole charging decision?

14 A I don't know what the threaten was about, but, yes, that  
15 was the timeframe.

16 Q These were the bases, at least part of the bases for  
17 your suggestion that a curfew be instituted?

18 A Curfew, yes.

19 EXAMINATION

20 BY MS. MOTLEY:

21 Q When was the Mayfair Mall threatened, what was the date?

22 A I don't know the date, but people had said throughout  
23 that we had monitored, we need to shut down the mall, we  
24 need to do things to the mall, and the Cheesecake  
25 Factory, we are going to shut it down. That day in July

1 in the Cheesecake Factory and we were in the Cheesecake  
2 Factory they were yelling to shut it down.

3 Q The Cheesecake Factory that day was not shut down,  
4 correct?

5 A Business was disrupted on more than one occasion where  
6 they had to exit the customers.

7 Q But that was the last day, when they went to the  
8 Cheesecake Factory and actually went into the Cheesecake  
9 Factory, correct?

10 A I am not sure.

11 Q But in July, which is the day you keep referencing, they  
12 actually did not shut down Cheesecake Factory, it was  
13 disrupted but business was not shut down that day,  
14 correct?

15 MS. BAYNARD: Objection to the form of the  
16 question, compound.

17 THE WITNESS: I don't think I would agree with  
18 that because the business was disrupted. They were not  
19 able to conduct their business.

20 THE COURT REPORTER: You said it was  
21 disrupted, and --

22 THE WITNESS: They were not able to conduct  
23 their business.

24 BY MS. MOTLEY:

25 Q Do you recall that I sent you an e-mail on that day, the

1 Cheesecake Factory was not shut down in July, correct?

2 MS. BAYNARD: Objection to the form of the  
3 questi on.

4 THE WITNESS: I don't remember your e-mail.  
5 You sent so many of them.

6 BY MS. MOTLEY:

7 Q Right. With regards to Mayfair Mall, when was the last  
8 time that the Mayfair Mall was threatened, the date?

9 A I don't know the date.

10 Q Was that also in July?

11 A Probably, it's been numerous times Mayfair Mall would be  
12 threatened.

13 MS. MOTLEY: Okay.

14 EXAMINATION

15 BY MR. SCHWAB:

16 Q When you say "threatened," did anyone ever say, "let's  
17 burn it down"?

18 A I have heard that, and I have seen that.

19 EXAMINATION

20 BY MS. MOTLEY:

21 Q You have heard it from people?

22 A I have heard it from people.

23 MS. MOTLEY: Sorry, go ahead.

24 EXAMINATION

25 BY MR. SCHWAB:

1 Q You say you have heard it and you have seen it, have you  
2 seen it on social media?

3 A I have.

4 Q Do you have records of that?

5 A I don't.

6 Q Why not?

7 A I don't do social media, when somebody would show me the  
8 social media, and here is what they said, I don't keep a  
9 record of it. I am not the analyst, I have no need for  
10 me to keep a record of it.

11 Q Did someone print it out?

12 A They may have.

13 Q Did the analyst save it?

14 A He probably did.

15 Q Do you have a records retention policy related to  
16 threats?

17 A I don't know if it pertains to threats specifically, I  
18 don't know.

19 Q If these were strong enough for you to believe that a  
20 curfew should be instituted, would you agree that those  
21 records should have been kept?

22 A Probably.

23 Q Okay. Do you know if those records were kept?

24 A I will assume that Dominic would keep those records  
25 because he's very meticulous.



1 Q If someone heard on the street that someone had said  
2 that they were going to burn down Mayfair Mall, would  
3 they write that down in the report?

4 A Would who write it down?

5 Q That officer?

6 A He may or may not.

7 Q So you're saying that the police department received  
8 reports and has records that there were threats to burn  
9 down the Mayfair Mall?

10 A I am saying that I have seen reports from social media  
11 that there were threats, whether or not those things  
12 were retained, because a lot of times I would just look  
13 at somebody's computer and say, here is what is being  
14 said right now, I would look at those. I didn't print  
15 them out. I don't go on social media myself so I don't  
16 have any records.

17 EXAMINATION

18 BY MS. MOTLEY:

19 Q Just to be clear, when you say you saw reports from  
20 social media, if someone posts something on social  
21 media, do you consider that to be a report?

22 A If someone --

23 Q -- posts something on social media, like, if someone  
24 posts a threat about Mayfair Mall on their social media,  
25 do you consider that posting to be a report?

1 A I don't consider it anything other than what it is, that  
2 somebody said something on social media, I see it, and  
3 then I will react to it to the degree that I need to.

4 Q A better question is: When you're saying you saw  
5 reports from social media, what does that mean? I'm  
6 trying to understand, does an officer see it and then  
7 writes the report? What are we talking about?

8 A No, I'm saying that Dominic, our civilian analyst, he  
9 would get it on his computer because he monitors social  
10 media. I would see reports come on, and he would show  
11 me what he's got, "here is what I've got." Okay.

12 Q What is Dominic's Facebook handle?

13 A I have no idea.

14 Q What is Dominic's Twitter handle?

15 A I have no idea.

16 Q But he has one?

17 A I guess.

18 Q But that is information that would be available to you?

19 A If I wanted to know it, but I don't care.

20 BY MS. MOTLEY: Okay.

21 EXAMINATION

22 BY MR. SCHWAB:

23 Q I'm sorry, but I really want to get into a little detail  
24 here. Can you give me in detail every threat that  
25 formed the basis of your recommendation for a curfew?

1 A No.

2 MS. BAYNARD: Objection, asked and answered,  
3 and responded.

4 BY MR. SCHWAB:

5 Q So just to confirm, you cannot tell me every threat that  
6 formed the basis for your recommendation for a curfew?

7 A I cannot.

8 Q Were there threats to any individuals?

9 MS. MOTLEY: The curfew of October 2020?

10 MR. SCHWAB: Correct.

11 THE WITNESS: As it pertained to the curfew,  
12 is what you mean?

13 BY MR. SCHWAB:

14 Q In the month of August or September leading up to that  
15 curfew, were there any threats to people that led you to  
16 recommend a curfew be instituted after the DA announced  
17 his charging order?

18 A Threats to people, I am not sure if there was threats to  
19 people, but, again, I still saw the things, you know,  
20 and you hear the comments about, "we got to do something  
21 more with Mayfair, burn it down, shut it down, shut down  
22 city hall," I saw those threats to.

23 Q And did you investigate those?

24 A I did not.

25 Q Did anyone go and speak with those people?

1 A I don't know.

2 Q Was there any determination of credibility?

3 A I don't know.

4 EXAMINATION

5 BY MS MOTLEY:

6 Q Who are those people?

7 (Discussion had off record.)

8 BY MS. MOTLEY:

9 Q Who are those people?

10 A What are you referring to?

11 Q When you mentioned, you had said you would see threats  
12 of "shut it down," and with regards to Mayfair Mall,  
13 that those people would say that, I am just trying to  
14 get clarification of who those people are.

15 A The people that would make those threats on social  
16 media.

17 Q What is their names?

18 A I don't know.

19 Q What is their organization that they're affiliated with?

20 A Probably some people are and some aren't. There's a lot  
21 of things being said.

22 Q Which organizations?

23 A The People's Revolution is one that identified  
24 themselves many times.

25 Q What about Tosa Together?

1 A I didn't pay any attention to anything from Tosa  
2 Together.

3 Q Black Lives Matter-Milwaukee?

4 A They probably said things, but I didn't pay attention.

5 Q Milwaukee Artists for Racial Change?

6 A Never heard that name.

7 Q Indivisible Tosa?

8 A Heard about them, don't know anything about them.

9 Q The idea of Antifa?

10 A I don't know anything about them.

11 Q Okay. So your focus -- not focus, but the only  
12 organization that you can identify that may have said  
13 "shut it down" of Mayfair is People's Revolution?

14 A It's the only organization of people who identified  
15 themselves that we saw prominently on social media,  
16 whether or not those were the same people that said  
17 "shut it down" or do whatever, we saw a lot of things  
18 from The People's Revolution, whether or not they were  
19 the specific ones, I don't know.

20 Q Is The People's Revolution a terrorist organization?

21 A I have no idea.

22 Q What's your definition of a terrorist organization?

23 A I think a terrorist organization would be a group that  
24 advocates violence and civil disobedience to affect  
25 changes to try to overthrow or undermine the United

1 States government.

2 EXAMINATION

3 BY MR. SCHWAB:

4 Q A group that advocates civil disobedience is a terrorist  
5 organization?

6 A Civil violence.

7 MS. BAYNARD: Objection, misstates his prior  
8 testimony. You've cleared it up. Go ahead.

9 EXAMINATION

10 BY MS. MOTLEY:

11 Q Just to be clear: Could you please repeat your  
12 definition of a "terrorist organization"?

13 A That was the first time I was asked to define it. I  
14 think it's a group of people or organization that  
15 advocates violence or plans to disrupt or undermine the  
16 United States government and its subsidiaries.

17 Q Do you consider yourself to be part of the United States  
18 government?

19 A I'm part of the Wauwatosa city government.

20 Q Okay. So do you believe that The People's Revolution  
21 advocates violence?

22 A I don't think they advocate violence.

23 Q Do you believe that The People's Revolution advocates  
24 for civil disobedience or plans to disrupt or undermine  
25 the U.S. government?

1 A Not the U. S. government.

2 Q Who do you think they plan to disrupt?

3 A I think that some of their members have advocated to  
4 disrupt our city and the peace and wellbeing in  
5 Wauwatosa.

6 Q Okay. But based on your definition of a terrorist  
7 organization, do you think The People's Revolution is a  
8 terrorist organization?

9 MS. BAYNARD: Objection, asked and answered.

10 THE WITNESS: I do not.

11 EXAMINATION

12 By MR. SCHWAB:

13 Q Do you know if any of your officers have ever referred  
14 to People's Revolution as a terrorist organization?

15 A I don't know if they did or not.

16 Q If you were to learn that someone did, would you find  
17 that inappropriate? If one of your officers referred to  
18 them as terrorists or a terrorist organization, would  
19 you find that conduct inappropriate?

20 A No, I think that police officers like anybody else are  
21 entitled to their opinions.

22 Q What about when they are wearing their uniforms, are  
23 they entitled to the same opinions?

24 A It depends on what their opinions are and who they  
25 proclaim them to.

1 Q So if an officer representing himself as an officer of  
2 Wauwatosa Police Department says that The People's  
3 Revolution is a terrorist organization, is that properly  
4 attributed to the Wauwatosa Police Department?

5 A If an individual officer made that comment, that would  
6 be that individual officer who made that comment, not  
7 the police department.

8 Q While he's wearing his uniform?

9 THE COURT REPORTER: I am sorry, I missed what  
10 you just said.

11 MR. SCHWAB: While he is wearing his uniform.

12 THE WITNESS: He made his individual comment.  
13 I speak for the Wauwatosa Police Department.

14 EXAMINATION

15 BY MS. MOTLEY:

16 Q So the buck stops with you with the Wauwatosa Police  
17 Department?

18 A When it comes to the statements and stuff, yes.

19 Q And also when it comes to policy decisions?

20 A Yes.

21 Q That includes also unwritten policy decisions?

22 MS. MOTLEY: What did we call them earlier?

23 MR. SCHWAB: Informal policies.

24 MS. MOTLEY: Informal policies.

25 THE WITNESS: Well, I've got to tell you, I



1 certainly don't tell the guys to make sure you gas up  
2 the car or clean your car for somebody, when I was  
3 giving an example before, but those things I don't get  
4 involved in.

5 BY MS. MOTLEY:

6 Q But you already mentioned you are the chief policy maker  
7 for the Wauwatosa Police Department?

8 A Yes.

9 Q And that includes formal policies as well as informal  
10 policies of the Wauwatosa Police Department?

11 A Yes.

12 EXAMINATION

13 BY MR. SCHWAB:

14 Q If an officer used the "N" word while wearing a uniform,  
15 would that trouble you?

16 A What is the "N" word you're referring to?

17 MS. MOTLEY: The derogatory term for  
18 African-American people that is used by some people,  
19 that "N" word. I don't know what other "N" word there  
20 is.

21 THE WITNESS: I want to make sure we are  
22 clear, but that would trouble me.

23 BY MR. SCHWAB:

24 Q That would trouble you, would there be consequences?

25 A If I found out about it, yes.

1 Q You wouldn't just say, mark it up to, "that's their  
2 opinion"?

3 A No.

4 Q If a police officer said "black people are monkeys"  
5 while wearing a uniform, would that trouble you?

6 A That is about as saying the "N" word.

7 Q Would there be consequences for that?

8 A Absolutely.

9 Q If a police officer while wearing a uniform described a  
10 local organization a terrorist organization, would you  
11 be troubled by that?

12 A Depends on what the organization is.

13 Q If you were to learn that a police officer wearing a  
14 police uniform referred to The People's Revolution as a  
15 terrorist organization, would that trouble you?

16 A I would want to know what the context was.

17 Q What context would be appropriate there?

18 A Well, with the interaction that that officer had with  
19 that person that he would make that label.

20 Q Do you know any of any interaction that would warrant  
21 that type of label?

22 A I don't.

23 Q Do you think it's appropriate to refer to civic  
24 organizations as terrorist organizations?

25 A No.

EXAMINATION

BY MS. MOTLEY:

Q Do you keep a list of people that are presumably in The People's Revolution?

A No.

Q Does anyone within the Wauwatosa Police Department keep a list of people who are within The People's Revolution?

A Not to my knowledge.

Q Did you hear about this protester list that your officers have created on The People's Revolution?

A No.

Q On July 14th of 2020 there was an e-mail sent from Shane W-R-U-C-K-E, who is that?

A Shane Wrucke is the lieutenant in charge of the detective bureau.

Q Okay. And in this e-mail he referred to a protest folder, "this list can be found in open investigations in the protest folder," what is he talking about?

A I have no idea. I don't know what the protest folder is.

Q On July 14th, 2020, Dominic Ritekowski referred to an updated list where there are around 40 people on it that he's fully ID'd, what is he talking about? You were actually on this e-mail.

A I don't know.

1 Q You didn't ask?

2 A I did not.

3 Q Do you read your e-mails?

4 A Most of them.

5 Q I wasn't trying to be funny. Does your secretary read  
6 your e-mails and tell you, how does that work?

7 A You know what, so many of the e-mails that I get, even  
8 at our break, you know how you get those and you just  
9 delete, and I delete a lot of them. I wasn't involved  
10 with those kinds of things, you know, they've got,  
11 Sergeant Wrucke and Dominic Ritekowski are exchanging  
12 information about those things. Okay, guys, I don't  
13 need to know.

14 Q There has been several spoliation letters sent to you  
15 and the Wauwatosa Police Department to preserve evidence  
16 as it relates to the protest and the curfew, did you  
17 delete any of those e-mails?

18 A Not right away.

19 Q But you have?

20 A Once I forward them to the city attorney and to the  
21 administrative bureau to handle those, you know, what is  
22 required, then I delete them.

23 Q By the "city attorney," are you referring to Alan  
24 Kesner?

25 A Yes.

1 Q So the e-mails that are part of the preservation letters  
2 and spoliation letters in reference to curfews and  
3 protesting, you would have forward all those e-mails to  
4 Alan Kesner or the city administrator, is that correct?

5 A Not the city administrator, I don't think.

6 Q Sorry, who else did you say?

7 A I would send them to Alan Kesner and the administrative  
8 bureau, probably Captain Morrison or Lieutenant Roy.

9 Q Okay. Would you forward them to Mayor McBride?

10 A No.

11 Q Would you forward them to Dominic Leone or anyone else  
12 within the fire and police commission?

13 A No.

14 Q Okay. And other than your bweber@Wauwatosa.net do you  
15 use any other e-mail addresses?

16 A No.

17 EXAMINATION

18 BY MR. SCHWAB:

19 Q Is that a personal e-mail, or is that your official  
20 e-mail?

21 A That's the city e-mail.

22 Q At bweber.net?

23 A Bweber@Wauwatosa.net, that is the city e-mail.

24 Q How long does the police, or the City of Wauwatosa  
25 retention policy?

1 A Yes.

2 Q Are you familiar with that?

3 A A little bit.

4 Q Do you check with that before you delete e-mails?

5 A I do not.

6 Q Do you know what it states in regards to maintenance of  
7 e-mails?

8 A I believe we require that our e-mails are kept for seven  
9 years or whatever it is, I don't know, but anything I  
10 delete is still able to be retrieved by the IT  
11 department.

12 Q So is it your understanding that there is an essential  
13 database that holds on to seven years of e-mails, and  
14 then you have a separate inbox which you can clean up?

15 A Yes.

16 Q So your understanding is that when you delete an e-mail  
17 you're not violating any policy or destroying any  
18 evidence?

19 A Correct.

20 EXAMINATION

21 BY MS. MOTLEY:

22 Q With regards to you and Mayor McBride, do you ever  
23 communicate with Mayor McBride by e-mail?

24 A Very little.

25 Q Do you ever communicate with Mayor McBride by text

1 message?

2 A Probably less than e-mail.

3 Q But you have communicated?

4 A I have.

5 Q Okay. Have you communicated with Mayor McBride by  
6 e-mail in relation to the curfew of October?

7 A Yes, I believe so.

8 Q Have you communicated with Mayor McBride by text message  
9 with regard to the curfew of October of 2020?

10 A Probably.

11 Q Did you communicate with any members of the fire and  
12 police commission by e-mail in relation to curfews in  
13 October of 2020?

14 A I don't think so.

15 Q Did you communicate with fire and police commission by  
16 text message with regards to curfew of October of 2020?

17 A I don't think so.

18 Q Did you talk to anyone within the fire and police  
19 commission by phone in relation to any of the protests  
20 or any of the curfews of 2020?

21 A I may have.

22 Q Did you communicate with Dominic Ritekowski by e-mail,  
23 phone, or text message with regards to any protesting or  
24 curfews of 2020?

25 A I don't think I did. I think I may have talked to him

1 in person, but I may have gotten something from him when  
2 there was a protest at my house.

3 Q Did Dominic Ritekowski, did he forward to you or send to  
4 you any reports with regards to curfews or protests of  
5 2020?

6 A He may have.

7 Q Did you communicate with Alan Kesner or any other of the  
8 city attorneys that we have had on -- (inaudible) -- or  
9 I believe George Schimmel, let's just say any of the  
10 city attorneys, did you communicate with them by text  
11 message, by e-mail as it relates to curfews or  
12 protesting in 2020?

13 A I don't think so.

14 Q Did you communicate with them, any of the city  
15 attorneys, by phone with regards to curfew/protesting in  
16 2020?

17 A Yes.

18 Q And who did you communicate with?

19 A Alan.

20 Q How often did you communicate with him?

21 A Once or twice.

22 Q Did you communicate by text, by phone, by text message  
23 or e-mail with the city administrator as it relates to  
24 curfews of protesting in 2020?

25 A I don't think so.



1 Q Did you communicate with the city administrator by phone  
2 as it relates to protesting and curfews in 2020?

3 A Yes.

4 Q Did you communicate with any members of the common  
5 council by text message or e-mail with regards to  
6 curfews or protesting in 2020?

7 A No.

8 Q Did you communicate with any common council members by  
9 phone in relation to curfews or protesting in 2020?

10 A No.

11 Q Did you write any orders in relation to the curfews or  
12 protesting in 2020?

13 A I think when we had the curfew in place and when we were  
14 anticipating some problems in October, I may have signed  
15 off on the order that had to do with other --  
16 (inaudible).

17 Q Do you recall signing off any special orders as it  
18 relates to say any protesting or curfews in 2020 aside  
19 from October -- let's just take it one-by-one, did you  
20 create any special orders in relation to the curfew in  
21 May of 2020?

22 A I don't know if I did or not.

23 Q Okay. Who would know?

24 A Kevin Vetter would probably know.

25 Q When did he become a captain, by the way?

1 A I believe it was February of 2020.

2 Q Okay. Did you -- did any of your designees, like your  
3 secretary or Captain Vetter or anyone that you  
4 designated to, did they create any communications,  
5 whether it be by text or e-mail, with regards to the  
6 curfew or protesting in 2020?

7 A I don't believe it would be my secretary, maybe a  
8 captain, but I don't know for sure.

9 Q Okay.

10 EXAMINATION

11 BY MR. SCHWAB:

12 Q I apologize. I wanted to return to the institution of  
13 the October 6th or 7th through 14th curfew?

14 MS. MOTLEY: The curfew of October 7th through  
15 October 12th.

16 MS. BAYNARD: So we have the same  
17 understanding, when they say the October curfew, that is  
18 the timeframe.

19 THE WITNESS: Yes.

20 BY MR. SCHWAB:

21 Q So you were the one that first came up with the idea?

22 A My police department and I, yes.

23 Q And you suggested it to Mayor McBride?

24 A Yes.

25 Q Did you also suggest or discuss this with the common

1 council?

2 A I did not.

3 Q Why not?

4 A I don't -- the common council is not in my chain of  
5 command, you know, the mayor is who I report to, and as  
6 I detailed earlier, the city administrator, so I don't  
7 communicate with them.

8 Q Did you also suggest it to the city administrator?

9 A Probably.

10 EXAMINATION

11 BY MS. MOTLEY:

12 Q Did you also discuss it with the fire and police  
13 commission?

14 A No.

15 Q Did you discuss it with the fire and police commission?

16 A No.

17 EXAMINATION

18 BY MR. SCHWAB:

19 Q So what was the primary basis for it?

20 A Preventative, so we wouldn't have the same kind of  
21 issues happen in our city that happened in other places  
22 around the country including Kenosha.

23 MR. SCHWAB: Okay.

24 EXAMINATION

25 BY MS. MOTLEY:

1 Q Did you also discuss this with the city attorneys?

2 A Briefly, yes.

3 Q Which attorneys?

4 A Alan Kesner.

5 Q Did you discuss it with Hanna Kolberg?

6 A I don't think so.

7 Q Did you discuss it with George Schimmel?

8 A Never.

9 Q Did you discuss it with the municipal court judge in  
10 Wauwatosa?

11 A No.

12 EXAMINATION

13 BY MR. SCHWAB:

14 Q So the primary was preventative?

15 A Yes.

16 Q And what were you trying to prevent?

17 A Violence and destruction in our city.

18 Q Okay. And you said Kenosha, can you give me some other  
19 examples of places you were concerned about?

20 MS. BAYNARD: Objection, asked and answered.

21 THE WITNESS: Chicago, Minneapolis, Portland,  
22 Seattle.

23 BY MR. SCHWAB:

24 Q Did you speak with anyone from any of these cities?

25 A No.

1 Q Do you know the police chiefs from any of these cities?

2 A The chief from Kenosha, I knew of him. I know his name.  
3 I didn't really have any relationship with him, though.

4 Q Did you speak with any officers from any of these police  
5 departments?

6 A No.

7 Q Was what you learned based solely on news reports?

8 A Yes.

9 Q Were there any problems with how the police responded in  
10 any of these cities?

11 A I don't know.

12 Q Did any of these police use excessive force against  
13 protesters?

14 A I would have no knowledge of that.

15 Q Are you aware that in Portland and Seattle the city  
16 police departments were subject to restraining orders  
17 and injunctions relating to the use of force on  
18 protesters?

19 A I am not aware.

20 Q But you were following the unrest?

21 A Yes.

22 Q So you didn't follow it completely?

23 A I saw things on the news like everybody else did, I did  
24 not want that to happen to my city.

25 MR. SCHWAB: Okay.

1 EXAMINATION

2 BY MS. MOTLEY:

3 Q Could you define what a "riot" is? Let me give you a  
4 better question, sorry. Were there any riots in  
5 Wauwatosa before the October 2020 curfew?

6 A I don't know the exact date we started having some of  
7 our disorder in our community. Prior to our disorder  
8 that we had, I wouldn't call any of it a riot.

9 Q So there hasn't been any riots in -- you've had  
10 disorder, but not riots in Wauwatosa?

11 A Yes.

12 EXAMINATION

13 BY MR. SCHWAB:

14 Q I am going to hand you what is labeled as Exhibit 1. I  
15 will give a minute to read that over.

16 A Okay.

17 Q Are you familiar with this document?

18 A Yes.

19 Q Is that your name at the bottom?

20 A It is.

21 Q And is it fair to say that you sent this to Mayor  
22 McBride?

23 A Yes.

24 Q And the date is September 10th?

25 A Correct.

1 Q Okay. So the first sentence you write, "After reviewing  
2 our situation and planning for the possibility of civil  
3 unrest, several issues are of concern." Tell me about  
4 your review of Wauwatosa's situation?

5 A Yeah, like said a couple minutes ago, I had seen what  
6 was happening in other parts of the country and Kenosha,  
7 and I wanted to make sure that we knew exactly what we  
8 were facing in our city, the possibilities could be.

9 Q Okay. And tell me about the -- is the possibility of  
10 civil unrest within that?

11 A Yes.

12 Q Can you define for me what you meant by "civil unrest"?

13 A Well, in the second paragraph I refer to the unrest in  
14 Kenosha which resulted in violence and property  
15 destruction, people were injured, so I think that is  
16 exactly what I was referring to.

17 Q Okay. Were you suggesting through this that no one be  
18 allowed out on the streets after 7:00 p.m.?

19 A At this point I am not requesting a specific time or  
20 whatever, I am asking the mayor to consider that we use  
21 a curfew.

22 Q So let's get into a little more of what you intended by  
23 this curfew: Was it your intention that at least during  
24 the curfew there would be no path for protest?

25 A I think if you put a curfew in effect, whatever time you





1 question, you said stop that -- (inaudible) --

2 MR. SCHWAB: I apologize. Let me restate  
3 that. That ran on.

4 BY MR. SCHWAB:

5 Q Based on what you had seen in national news reports, you  
6 advised the mayor to institute a curfew which would  
7 among other things prohibit protest based on an effort  
8 to prevent civil unrest?

9 A Yes.

10 Q Okay. Tell me about -- so this letter is  
11 September 10th, correct?

12 A Yes.

13 Q And would it be fair to say that you began reviewing or  
14 considering a curfew recommendation before  
15 September 10th?

16 A Yes.

17 Q Okay. Who did you talk with about that?

18 A Probably my staff members.

19 Q Can you name those staff members?

20 A It would be my captains.

21 Q Just your captains?

22 A There may have been others involved, other supervisors,  
23 that would probably be it.

24 MR. SCHWAB: Okay.

25 EXAMINATION

1 BY MS. MOTLEY:

2 Q Did you talk to anyone within the police and fire  
3 commission?

4 A I don't think so.

5 Q Did you talk to Alan Kesner?

6 A I don't know if I talked to Alan prior to this letter.  
7 I may have, I don't know.

8 Q Did you talk to the city administrator?

9 A Probably.

10 Q Did you talk to Mayor McBride?

11 A I don't think so.

12 Q Did you talk to anyone in the governor's office?

13 A There was, at one point we made a phone call with  
14 somebody from the governor's office, but not the  
15 governor himself, I don't know the date of that.

16 Q You would agree there was no civil commotion in  
17 Wauwatosa before September 10th, correct?

18 A I disagree with that.

19 Q When was there a civil commotion?

20 A Throughout that entire summer.

21 Q Why did you wait until October for the curfew if you  
22 wrote this letter on September 10th?

23 A We were able to manage things throughout summer with  
24 what was going on. It wasn't easy on a daily basis in  
25 Wauwatosa, but there was disorder in this community all

1 summer long, but I thought that after the district  
2 attorney's decision that would be coming out, we would  
3 probably face some more difficulties.

4 Q Can you define what a "civil commotion" is?

5 A It is another -- a different word rather than civil  
6 unrest.

7 Q So it is a synonym for civil unrest?

8 A I believe it would be.

9 Q So by this letter you define "civil unrest"?

10 A Okay.

11 Q Right. Based on your definition in this letter, how did  
12 you define "civil unrest"?

13 A I refer to the -- I said officers who responded to the  
14 unrest in Kenosha, I refer to the incident in Kenosha as  
15 unrest.

16 Q Right. And that is where you refer to buildings being  
17 burned and people being physically hurt, correct?

18 A Yes.

19 Q Were there any buildings burned in Wauwatosa?

20 A No.

21 Q Were there any people that were physically -- any law  
22 enforcement officers who were physically hurt from  
23 September 10th through the curfew of October?

24 A Yes.

25 Q Who?

1 A Officer David Sefran (Phonetic) was hurt.

2 Q How?

3 A He was hit by a car.

4 Q Who hit him?

5 A A police officer responding to another incident, I  
6 believe.

7 Q Was that regarding the protests, or he just was hit by a  
8 car?

9 A It was on scene at one of the protests.

10 Q But he doesn't know who hit him?

11 A He does.

12 Q Who?

13 A I believe he was hit by -- I would be speculating. I  
14 know him, but I had a couple incidents, I don't know  
15 which one hit him.

16 Q Was that person criminally charged by the district  
17 attorney's office by hitting an officer with a vehicle?

18 A No.

19 Q Why not?

20 A I don't think there was any intent to hit him.

21 Q Okay. Was that person a protester that hit him with the  
22 car?

23 A It was a police officer.

24 Q Another police officer hit a police officer?

25 A Correct.

1 Q So did any people who were part of protesting hurt any  
2 Wauwatosa police officers?

3 A Not that I'm aware of, other than there were some things  
4 thrown at police officers, and some cuts and bruises,  
5 scrapes things like that.

6 Q Based on your definition of civil unrest, which per  
7 Kenosha required burning buildings, which wasn't  
8 happening in Wauwatosa, right?

9 A No.

10 Q And also based on your definition of officers getting  
11 physically hurt in Wauwatosa, that also didn't happen,  
12 correct?

13 A Other than what I just described, no.

14 Q Based on your definition, there wasn't any civil unrest  
15 in Wauwatosa, correct?

16 A Are you talking about prior to this letter?

17 Q I am talking about period.

18 A There was civil unrest in Wauwatosa.

19 Q What is your definition --

20 MS. MOTLEY: Go ahead.

21 EXAMINATION

22 BY MR. SCHWAB:

23 Q Let's just get into civil unrest, so would you define  
24 property destruction as civil unrest?

25 A I would define property destruction as property

1           destruction, destroying property.

2       Q     So you would not refer to that as civil unrest?

3       A     Not necessarily.

4       Q     Would you refer to violence as civil unrest?

5       A     In the context it could be.

6       Q     Is there any conduct that you would qualify as or define  
7           as civil unrest that is not property destruction,  
8           violence, or a threat of violence directed at another  
9           individual?

10      A     Yes.

11      Q     Does that include people marching?

12      A     It can.

13      Q     People being upset with the government?

14      A     Depends on how they are vocalizing or how they are  
15           conducting themselves.

16      Q     So there is conduct, and some of that would be peaceful,  
17           you would agree?

18      A     Yes.

19      Q     There is peaceful conduct that you think constitutes  
20           civil unrest?

21      A     Not peaceful conduct.

22      Q     Conduct that is nonviolent and nondestructive, that you  
23           would define as civil unrest?

24      A     No, if it's nonviolent, nondestructive, that would be a  
25           peaceful protest.

1 Q If I cursed at a police officer, is that civil unrest?

2 A No.

3 Q Okay. Is it okay for me to curse at a police officer?

4 A According to the constitution, I believe you can do  
5 that.

6 Q Is there conduct that is the constitutional but still  
7 would qualify as civil unrest?

8 A Yes.

9 Q Okay. So people just yelling and screaming down the  
10 road without destroying property or harming people, can  
11 that be civil unrest?

12 A It can.

13 Q So protests, again, that don't devolve into property  
14 destruction or violence or a threat of violence can  
15 still be civil unrest?

16 A Absolutely.

17 Q That conduct can be subject to a curfew?

18 A Subject to what?

19 Q Was that they type of conduct, or was that some of the  
20 conduct that you were concerned about in this letter?

21 A That would be some of it, but into the all.

22 Q Okay. When you were talking about civil unrest in this  
23 letter, you were referring to property destruction?

24 A Yes.

25 Q And violence?

1 A Yes.

2 Q And the threat of violence?

3 A Correct.

4 Q And conduct that was outside of those three components?

5 A Yes.

6 Q Can you just explain a little, I am trying to  
7 understand, outside of property destruction and  
8 violence, what type of conduct were you concerned about?

9 A As I said, all summer long we had protests in our  
10 community, and I think it is a misnomer for people to  
11 say that it was peaceful protests. The protestors would  
12 block traffic, disrupt neighborhoods. I experienced it  
13 myself, and I think that it's criminal behavior, what I  
14 experienced at my house. And when people say that these  
15 things are peaceful protests that is not -- that is not  
16 true. That is not correct. It's criminal behavior.  
17 When -- you can express your First Amendment rights, but  
18 when you start affecting other people's rights to  
19 assemble or to also have their peace of mind, I think  
20 you've moved beyond where you should be.

21 Q Do you think that this order affected people's ability  
22 to assemble?

23 MS. BAYNARD: The curfew order?

24 BY MR. SCHWAB:

25 Q The October curfew order affected people's ability to



1           assemble?

2       A     It should have.

3       Q     Okay. Let's move on: Did the protests become unlawful  
4           during October?

5       A     Yes.

6       Q     Can you define what an unlawful assembly is?

7       A     Unlawful assembly, my definition of it would be that if  
8           people are assembling outside of what is permitted by  
9           the law, or in this case the curfew, for whatever  
10          purpose they gather in and they're told that they're in  
11          violation, if they don't follow the direction of what  
12          they're given, and continue, you know, when you are  
13          given repeated directions, I think that becomes  
14          unlawful.

15      Q     Who decides when an assembly has become unlawful?

16      A     The police officer on the scene would decide that.

17      Q     Any officer?

18      A     Supervisor.

19      Q     Supervisor of what rank?

20      A     In this particular case during October we had --  
21           everybody was working, but Captain Vetter was in charge,  
22           he was in command.

23      Q     It was his job to determine on each night if the  
24           assembly was unlawful?

25      A     He would get information back from the people that were

1 on the scene, the lieutenants and sergeants that were  
2 already assigned different area.

3 Q Did you have any role in that determination?

4 A My role was to be in the emergency operations center.

5 Q Did anyone ever ask you, can we declare this an unlawful  
6 assembly?

7 A No.

8 Q So was it a sergeant or Captain Vetter that determined  
9 on each night and declared they were unlawful  
10 assemblies?

11 A The lieutenants, as I said, the sergeant or the  
12 lieutenant that was on the scene would say, here is what  
13 we've got, they would call in and say that it has become  
14 unlawful, the curfew is in effect, can we start  
15 enforcing the ordinance?

16 Q On these nights, was it just by mere fact that there was  
17 a curfew that started at 7:00 p.m. that those assemblies  
18 were unlawful?

19 A I don't understand that.

20 Q Is the reason or basis that those curfews were declared  
21 -- or, rather, those assemblies were declared unlawful  
22 was because there was a curfew in place?

23 A That would be the determining factor there, but even if  
24 there wasn't a curfew in place, let's just say there  
25 wasn't a curfew in place, I think a lot of it was

1           unlawful .

2       Q     Tell me more about why you think it was unlawful .

3       A     As I said earlier, they were blocking traffic,  
4           disrupting neighborhoods and property destruction.

5       Q     Okay. Do you know what the basis for each night's  
6           declaration was for why they were unlawful assemblies?

7       A     I'm not sure I understand.

8       Q     On October 7th, do you know why an unlawful assembly was  
9           declared?

10      A     I don't have the reports in front of me of what happened  
11          on October 7th, but what day of the week was that?

12                   MS. MOTLEY: I think it was a Wednesday.

13                   MS. KNOWLTON: It was a Wednesday.

14                   THE WITNESS: That was the day that I believe  
15          THE district attorney made his ruling on the Mensah  
16          case.

17                   MR. SCHWAB: Yes.

18                   THE WITNESS: So we had anticipated that we  
19          would have problems after that based on the experiences  
20          and seeing what happened around the country with other  
21          similar type of instances, so we were prepared.

22                   BY MR. SCHWAB:

23      Q     Do you keep records for any declaration of unlawful  
24          assembly?

25      A     I don't.

1 Q Are there reports generated for a decision?

2 A Not to my knowledge.

3 Q Does an unlawful assembly affect people's constitutional  
4 rights?

5 A An unlawful assembly?

6 Q Does the declaration an assembly has become unlawful  
7 affect people's constitutional rights?

8 A I don't think so.

9 Q No, okay. Do you think it's important for people to be  
10 able to protest?

11 A Yes.

12 Q Do you think some protest is illegitimate?

13 A My personal opinion, it doesn't really matter. Do I  
14 think protests are illegitimate, I question the reason  
15 why some people really protesting. I recognize they  
16 have the right to do it.

17 Q The right based on what?

18 A It is what your First Amendment rights are.

19 Q Did you understand the protests in October to be  
20 anti police?

21 A I would characterize them as anti-law enforcement, yes.

22 Q Is it appropriate for the police to declare an  
23 anti police protest unlawful?

24 A We did not do that, so the answer would be no.

25 Q What did you do?

1 A We enforced the curfew.

2 Q Do you believe there is a difference between being  
3 anti police and anti police brutality?

4 A Let me just think for a second. Yes.

5 Q What do you think about police brutality?

6 MS. BAYNARD: Objection to the form of the  
7 question. Go ahead.

8 THE WITNESS: Well, I am against it, of  
9 course. I would say that, if I could just expound on  
10 the -- you know, the George Floyd case, for example, I  
11 made this comment publicly after that incident happened,  
12 whether you wanted to argue that Derek Chauvin killed  
13 George Floyd with the weight and position of his knee or  
14 whatever, there was speculation that was talked about in  
15 court, the appearance and the arrogance that he gave,  
16 and he did that for such a long period of time, was  
17 disgusting. I was personally happy that he was found  
18 guilty, and I don't think Derek Chauvin was a racist.  
19 He would have had done it to anybody because he was that  
20 pompous and arrogant, the way he acted.

21 BY MR. SCHWAB:

22 Q Does it concern you that police can be imbued with that  
23 power and arrogance?

24 A Absolutely.

25 Q Are any police on your force that arrogant?

1 A I certainly hope not.

2 Q Do you know if any police on your force display  
3 arrogance against the public?

4 A If I knew that they did, I would probably intervene  
5 because that is one thing that I think is detrimental to  
6 our image.

7 Q Do you think police take issue with disrespect towards  
8 police officers?

9 A I think they do.

10 Q Do you know if -- do you believe, at least in this  
11 country as a whole, that there are officers that use  
12 violence to respond to disrespect?

13 MS. BAYNARD: Objection, relevance. Go ahead.

14 THE WITNESS: In this country, yes.

15 BY MR. SCHWAB:

16 Q Do you know if your officers have ever done that?

17 A Not to my knowledge.

18 Q Can you tell me if there is any training on what the  
19 definition of an unlawful assembly is?

20 A I don't know what the training would be on that. There  
21 probably is, but I am not familiar with it.

22 Q Is there a policy on how to define an unlawful assembly  
23 for your officers to use while they are in the field?

24 A I am not sure.

25 Q Do you know who would make that -- who would define it

1           for that officer that is going to make the declaration  
2           that an assembly has become unlawful?

3       A     I would guess the supervisor on the scene would discern  
4           if it's an unlawful assembly.

5       Q     What I'm asking is, what does he base -- is there a  
6           definition he looks to, does he have training, how does  
7           he know that an assembly is unlawful?

8       A     It's hard to define a lot of those things, I think we  
9           would have to look at what the statutes are and the  
10          ordinances are, and what exactly is the behavior they're  
11          experiencing.

12      Q     Does that officer take into account who is protesting  
13          when declaring an unlawful assembly?

14      A     I don't know. I don't know what you mean.

15      Q     You know, an organization, which organization it is,  
16          would an officer declare an assembly unlawful because it  
17          is the KKK?

18      A     I think that would be a bigger issue that we would  
19          probably -- if we knew that they were protesting, I  
20          think the city would probably go to court over that to  
21          begin with, I don't know.

22      Q     Okay. Did you take into account that the people that  
23          would be protesting in October would be protesting  
24          police when declaring that assembly unlawful?

25      A     Yes.

1 Q Did you take into account their viewpoint?

2 A The protesting police, yes.

3 MR. SCHWAB: Let's take a lunch.

4 (A recess was taken.)

5 MS. MOTLEY: So we're back on the record.

6 It's 1:15 p.m. Thank you.

7 BY MR. SCHWAB:

8 Q So I would like to get into, if it's possible, to talk a  
9 bit about the process by which you moved from your  
10 September 10th letter to the September 30th proclamation  
11 of an emergency by Mayor McBride. So the September 10th  
12 letter, that is kind of what kicked off the process, is  
13 that correct?

14 A Yes.

15 Q And then what was the next thing that happened?

16 A Well, I got the proclamation letter, so I think they he  
17 probably, the mayor probably talked to Alan Kesner when  
18 they drafted up the letter.

19 Q Did you have no interaction between sending that letter  
20 and receiving an order of the proclamation?

21 A Only interaction, I think we had one of our meetings  
22 because I do a regular meeting with the mayor, and we  
23 suggested a couple things to include.

24 Q Can you tell me what those things were?

25 A I made the suggestion after seeing what happened in



1 Kenosha, I didn't want to -- you know, I wanted to  
2 prohibi t gasoline sales in cans after the curfew is in  
3 effect because we don't want people setting things on  
4 fire. So you could still buy gasoline for your car, but  
5 we didn't want to sell it in portable cans.

6 Q Okay.

7 A And I think I also suggested the curfew start at  
8 7:00 p.m.

9 Q Why did you make -- how did the make the determination  
10 of 7:00?

11 A Sunset, and I think right around October, that is when  
12 the sun goes down, right around that time. It seemed  
13 like most of the issues that cities would face would  
14 happen after dark.

15 Q Okay. Was there any discussion of where, or did the  
16 curfew -- was the curfew attempting to cover every  
17 square inch of Wauwatosa?

18 A It was citywide.

19 Q Were there any exceptions?

20 A I don't think it was covered by the curfew exceptions,  
21 but certainly as I said, if you had people coming home  
22 from work, or they had to get their kids somewhere or  
23 whatever, we certainly would not arrest them for that.

24 Q What do you know about the development outside of your  
25 involvement of the curfew order?

1 A I don't know what their process was.

2 Q Were any of your officers involved?

3 A I don't think so.

4 EXAMINATION

5 BY MS. MOTLEY:

6 Q Who is "their," their process, who are we talking about?

7 MS. BAYNARD: I think he asked the question,  
8 and he said "their process."

9 MS. MOTLEY: No, he said I didn't know what  
10 their process involved.

11 BY MS. MOTLEY:

12 Q Who are you referring to?

13 A I am referring to the mayor and probably Alan Kesner.

14 Q Okay. The city administrator as well?

15 A I'm guessing he is probably involved, but I don't know  
16 that.

17 Q Fire and police commissioners?

18 A No.

19 Q Common council members?

20 A I don't think so, but I don't know.

21 MS. MOTLEY: Go ahead.

22 EXAMINATION

23 BY MR. SCHWAB:

24 Q Did you ever participate in a phone call with anyone  
25 from Governor Evers' office?

1 A Yes.

2 Q When?

3 A Sometime in that timeframe, if I had my calendar, I  
4 can't tell you what the date was.

5 Q Can you tell me the substance of that phone call?

6 A That we were preparing for a possible civil unrest, and  
7 would we be able to utilize the National Guard.

8 Q What did they say?

9 A I think somebody from emergency management was on the  
10 call too and told us what the steps were, and, of  
11 course, the chief police does not request the National  
12 Guard, it has to come from a higher authority than the  
13 chief.

14 Q Who would that be?

15 A That would be the mayor.

16 Q Was it your recommendation to request the National  
17 Guard?

18 A Yes.

19 Q And what was the basis of that recommendation?

20 A What I had seen, especially what happened in Kenosha.

21 Q What in particular worried you from what happened in  
22 Kenosha?

23 A I am sorry?

24 Q What in particular from Kenosha worried you?

25 A There was many people that were doing many unlawful

1 things, setting fires, and there was one video I saw of  
2 them, people trying to break into the Kenosha Police  
3 Department and the courthouse.

4 Q So was it all about people that were there to protest  
5 police?

6 A I don't know what they were all there to protest.

7 EXAMINATION

8 BY MS. MOTLEY:

9 Q Just to make a clean record, what timeframe are we  
10 talking about when we're talking about what happened in  
11 Kenosha?

12 A During the summertime whenever the Kenosha incident  
13 happened.

14 Q August 25th, that week?

15 A Is that the one where the fires all started and the  
16 Jacob Blake case, I don't know.

17 Q Jacob Blake was shot August 24th, yes.

18 A That would be it.

19 EXAMINATION

20 BY MR. SCHWAB:

21 Q So your concern was that Wauwatosa would look like  
22 Kenosha based on the people who were protesting Jacob  
23 Blake's shooting?

24 MS. BAYNARD: Objection to the form of the  
25 question, misstates his testimony. He said he didn't

1 know who or what they were protesting.

2 BY MR. SCHWAB:

3 Q So you were worried about fires?

4 A Fires and violence.

5 Q What type of violence?

6 A Any time there's violence, I worry about violence  
7 against any person which would include police officers  
8 and certainly any other citizen.

9 Q I'm talking about -- you're saying the violence from  
10 Kenosha, correct?

11 A Yes.

12 Q What was the violence from Kenosha that worried you?

13 A The fires, the disruption, the trying to break into the  
14 police department and the courthouse, and of course the  
15 shootings.

16 Q Did you ever speak with any militia members?

17 A By militia, do you mean the National Guard?

18 Q Have you ever heard of the Kenosha guard?

19 A No.

20 Q Do you know the name Kyle Rittenhouse?

21 A Yes.

22 Q What do you know about him?

23 A Was he the police officer that was involved? I don't  
24 know.

25 Q Okay. In Kenosha, were you aware that right-wing

1 malitia members came into town to protect businesses?

2 A Not at that time.

3 Q You weren't aware?

4 A No.

5 Q Would you have welcomed right-wing malitia members  
6 coming into Wauwatosa to protect downtown businesses?

7 A I don't think so.

8 Q Why not?

9 A Well, if they're not law enforcement or operating under,  
10 you know, the standards and rules that we -- we go by, I  
11 would not feel comfortable with that.

12 Q Okay. Did the operational partners that you had operate  
13 under your rules?

14 A I believe so.

15 Q You believe so?

16 A Uh-huh.

17 Q Why aren't you certain?

18 A There's many, many agencies involved in Wauwatosa.

19 Q Did you issue them your policies and procedures?

20 A I did not.

21 Q Did anyone from your office?

22 A I don't know.

23 Q Did you direct anyone from your office to do so?

24 A No.

25 Q Who made the decision to bring in operational partners,

1 or partners?

2 A That was a decision that was made when we were asking  
3 for mutual aid.

4 Q Who made the decision to ask for mutual aid?

5 A We as a staff did that.

6 Q When you say, "we as a staff," can you go into more  
7 detail about that?

8 A Captain Vetter was my operations captain, he would be  
9 the one that would be directing that.

10 Q So could he do that without your approval?

11 A No.

12 Q So you were the one that made the decision?

13 A In consultation with him, yes.

14 Q But ultimately it was you?

15 A Yes.

16 Q And do you have any prewritten mutual aid agreements?

17 A Yes.

18 Q Okay. Who do you have those with?

19 A We have what we call the smart group, which is suburban  
20 mutual aid response teams, and with all the agencies in  
21 Milwaukee County. As far as mutual aid beyond that, I  
22 don't believe we have written agreements with any of  
23 those communities.

24 Q And just to be clear, you're not certain in whether  
25 these mutual aid partners operated within or under

1           Wauwatosa police policies?

2       A     I am not certain.

3       Q     Do you know if you have policies on use of force that  
4           are more restrictive than some of your mutual aid  
5           partners?

6       A     I don't know if they are or not.

7       Q     Would it have been acceptable if your mutual aid  
8           partners used force that you wouldn't permit your  
9           officers to use during the October protests while they  
10          were here?

11      A     Say that again, if they used force that --

12      Q     If the mutual aid partners who came in during the  
13          October protests --

14                   MS. MOTLEY: And August.

15   BY MR. SCHWAB:

16      Q     -- and August -- used force that would not be allowed to  
17          be used by Wauwatosa officers, would that be a problem?

18      A     I would be concerned.

19      Q     Okay. Are they under your command?

20      A     They are operating under the command of Captain Vetter  
21          who is in charge of overall operation.

22      Q     So these officers and partners were agents of Wauwatosa  
23          police while they were here?

24      A     Yes.

25      Q     You guys were responsible for them?



1 A Probabl y.

2 Q Okay.

3 EXAMI NATION

4 BY MS. MOTLEY:

5 Q Did you have any processing points that you used in the  
6 curfews, the October curfew, other than law -- let's  
7 just say this, let's break it down: What non-law  
8 enforcement processing points did you have in the  
9 October curfew?

10 A What do you mean by "processing," I am not sure I  
11 understand.

12 Q I guess we can call them operational partners, for  
13 instance, just to the give you an example, I know there  
14 was things happening at Mayfair Mall, so I am just  
15 trying to figure out what private entities were also  
16 assisting law enforcement during the curfew of October.

17 A I am not aware of any private entities.

18 Q But you are aware that, at Mayfair Mall, that people  
19 were arrested and taken to Mayfair Mall?

20 A Yes.

21 Q Are you aware of that happening at any other private  
22 establishments?

23 A No.

24 Q Are you aware of any private establishments such as Our  
25 Redeemer Church being used as a staging area, or a place

1 where law enforcement officers go and park and  
2 congregate?

3 MS. BAYNARD: Objection to the form of the  
4 question, compound. Go ahead.

5 THE WITNESS: I am not sure what the staging  
6 areas, where they were.

7 BY MS. MOTLEY:

8 Q Who were your non-law enforcement agencies partners that  
9 helped with the curfew of October in any way, shape, or  
10 form?

11 A Non-police?

12 Q Yes.

13 A If that would include people who helped provide food  
14 for --

15 Q Or organization or businesses?

16 A There were a number of businesses that provided things,  
17 but I am not really sure.

18 Q Okay. Did Mayfair Mall provide things?

19 A Well, I think they had their security force working, but  
20 whether or not they provided things to us, I am not  
21 aware of that.

22 Q Okay. So what do you mean their security force, so the  
23 security of Mayfair is not a part of Wauwatosa Police  
24 Department?

25 A They have their own separate private security force.

1 Q Are you aware that there were officers that were  
2 triaging people at Mayfair Mall during the October  
3 curfew?

4 A When you say, "triage," that means people were injured,  
5 and I am not familiar with that.

6 Q That means people were processed, so their names were  
7 taken, their photographs were taken --

8 A Yes.

9 MS. MOTLEY: Go ahead.

10 EXAMINATION

11 BY MR. SCHWAB:

12 Q First of all, how would you describe that relationship  
13 with Mayfair Mall?

14 A It is a partnership.

15 Q Did you have anything in writing?

16 A We do have -- I believe there's a contract in writing.

17 Q And what does that contract speak to?

18 A It's been a long, long time, and we're always, the city  
19 and the police department are always trying to figure  
20 out where the written contract is because we can't find  
21 it, but we have an office at Mayfair Mall, and we have a  
22 booking area at Mayfair Mall. We provide officers there  
23 during second shift seven days a week. Mayfair pays for  
24 some of that, and then the city absorbs some of it too.  
25 We have a partnership that probably has been in

1 existence for at least 15 years.

2 Q So during these protests, did you -- did the Wauwatosa  
3 Police Department detain people at Mayfair Mall?

4 A I think they processed some through their booking area,  
5 yes.

6 Q Did they only through booking area, or did you have  
7 other locations within the mall?

8 A I am not aware of anything other than the booking area.

9 Q Okay. Did the Wauwatosa police or any other of your  
10 partners detain people at places that were not law  
11 enforcement buildings?

12 A I am not sure if they did or not.

13 Q You know, you just said, you mentioned processing, they  
14 processed people at Mayfair?

15 A Yes.

16 Q Did they process people at any other location?

17 A I thought they processed them at other police  
18 departments.

19 Q Okay.

20 A Which ones they used, I don't know. West Allis would be  
21 one that comes to mind, I thought Waukesha Sheriff, but  
22 I am not sure.

23 EXAMINATION

24 BY MS. MOTLEY:

25 Q What about processing at any -- again, what do you think

1 was happening at Mayfair Mall during the protest of  
2 October 20th, what is your understanding of what was  
3 happening there?

4 A With the processing, or --

5 Q Period.

6 A I think we had -- Mayfair had the security force to keep  
7 the property secure, and we had officers waiting on  
8 standby to help them keep it secure.

9 Q That's all you know about what happened at Mayfair Mall?

10 A Yes.

11 Q Are you aware of Our Redeemer Church being used as a  
12 partner for law enforcement during the protest -- or,  
13 the curfew of October 20th?

14 A I am not.

15 Q Are you aware of Gunta Law Offices being used as a  
16 partner during the October curfew?

17 A When you say, "partner," what do you mean?

18 Q You tell me, what did you use Gunta Law Offices  
19 for during the October curfew?

20 A I didn't use the Gunta Law Offices.

21 Q Did the Wauwatosa Police Department or any Wauwatosa  
22 Police Department partners use Gunta Law Offices during  
23 the October 20th, curfew?

24 A We did not.

25 Q Are you sure?

1 A We used the CVMIC office.

2 THE COURT REPORTER: The what?

3 MS. BAYNARD: C-V-M-I-C.

4 BY MS. MOTLEY:

5 Q What is the CVMIC office?

6 MS. BAYNARD: It is an insurance company.

7 BY MS. MOTLEY:

8 Q Where is the insurance -- where is the CVMIC office at?

9 A It is Bluemound Road.

10 Q Is it in Gunta Law Offices?

11 A Gunta Law Offices is in the same building.

12 Q But it is a separate office?

13 A Yes, ma'am.

14 Q What did you use the CVMIC office for?

15 A We used it for an emergency operations center.

16 EXAMINATION

17 BY MR. SCHWAB:

18 Q Is that where you were located?

19 A Yes.

20 Q So you operated out of the CVMIC insurance office?

21 A I did.

22 Q Who was there with you?

23 A Mayor McBride, City Administrator Schimmel, the fire  
24 chief, Jim Case (Phonetic) was there, the IT director  
25 for the city, Jilal Ali (Phonetic) and then we also had

our public information officers that were there in a separate room, and then periodically there were different people that would stop in and go out that were affiliated with one or more of those agencies.

Q What were you --

## EXAMINATION

BY MS. MOTLEY:

Q Was anyone from the fire and police commission, did they ever show up at the CVMIC office?

A No.

Q Did anyone from the common council ever show up at the CVMIC office?

A	No.
---	-----

Q Did anyone from Gunta Law Offices ever show up at the CVMIC office?

A Yes.

Q Who?

A Greg Gunta.

Q Why did he show up?

A When we first got there he showed me a room that had refreshments, he said, "if you guys need anything, there's soda in the refrigerator, or whatever," that was the only contact I had with him.

Q So he was the one that gave you access to the CVMIC office --

1 (Discussion had off record.)

2 THE WITNESS: CVMIC, they gave us access.

3 BY MS. MOTLEY:

4 Q Okay.

5 A When I got there --

6 Q He was already there?

7 A He was the one that said, if you need something, feel  
8 free.

9 Q Okay.

10 (Discussion had off record.)

11 BY MS. MOTLEY:

12 Q Is there one door to get in the CVMIC office and Gunta  
13 Law Office?

14 A I think there is two different entrances.

15 Q Okay. Same building?

16 A Yes.

17 Q Same floor?

18 A Yes.

19 MS. MOTLEY: Okay.

20 EXAMINATION

21 BY MR. SCHWAB:

22 Q So you wrote the mayor a letter on September 10th?

23 A Yes.

24 Q And then you had -- you were on a phone call sometime  
25 after that with the governor's office and I guess public



1 safety?

2 A The governor's office, the director of emergency  
3 management, and I think the exigent general.

4 Q The who?

5 A Exigent general.

6 Q Did you ever have a one-on-one conversation with Mayor  
7 McBride between September 10th and September 30th  
8 regarding the institution of a curfew order?

9 A I may have.

10 Q You don't recall?

11 A I don't.

12 Q Did he ever ask you any questions about it?

13 A Nothing that stands out.

14 Q Are there any e-mail correspondents between you and the  
15 mayor about the curfew order prior to the institution of  
16 the curfew?

17 A I don't think so.

18 Q Any text messages?

19 A No.

20 Q Would the mayor have spoken with Captain Vetter?

21 A He may have.

22 Q And you don't know?

23 A I don't.

24 EXAMINATION

25 BY MS. MOTLEY:

1 Q How many cell phones do you have?

2 A Me personally?

3 Q Yes.

4 A Two.

5 Q Are they both work phones, or is one work and one  
6 personal?

7 A Since I'm leaving there in about ten days, I just got my  
8 own personal phone not that long ago, but I don't do  
9 anything from work on it.

10 Q When did you get the new phone?

11 A Probably a month ago.

12 Q And prior to a month ago, how many phones did you have?

13 A Just one.

14 Q What's your work phone number, cell number?

15 A Do I have to answer that?

16 MS. BAYNARD: What's the purpose of having his  
17 work cell phone number?

18 MS. MOTLEY: I just want to have it.

19 MS. BAYNARD: You use it for work, so --

20 THE WITNESS: (414) 651-8113.

21 BY MS. MOTLEY:

22 Q Don't worry, I won't call it.

23 A Okay.

24 Q I won't give it out.

25 A Thank you.

1 Q And what is your personal number?

2 A I won't give that out.

3 Q Do you use your personal phone for work purposes?

4 A Never.

5 Q During the curfew of last year, is this the phone for  
6 that work number you gave me, is that the primary cell  
7 phone number you would use?

8 A That would be the only one.

9 Q That would be the only one, okay?

10 A Yes.

11 Q Is that on your Samsung Galaxy?

12 A Yes.

13 Q Then do you have an office phone specific to you?

14 A Yes.

15 Q What's that number?

16 A (414) 771-3930.

17 Q Okay. And did you preserve any text messages that you  
18 had going or coming from your work cell phone from last  
19 year?

20 A No.

21 Q You erased those?

22 A Yes, but again, they're still retrievable.

23 Q Why did you erase those?

24 A Because if I don't erase them my screen is all filled  
25 with messages all the time, and I don't like the

1 clutter.

2 Q How did you preserve those?

3 A They would go to the city server or whatever.

4 Q Oh, it goes to the city server.

5 A Yes.

6 Q Okay, and so you have text messages regarding -- from,  
7 you know, what was the timeframe -- do you have text  
8 messages from August 1st until, I guess, now that deal  
9 with the curfew or the protests in the City of  
10 Wauwatosa?

11 A If there are any, and there would be very few because I  
12 don't text much.

13 Q You receive texts?

14 A Maybe a couple.

15 Q Does the mayor know your work cell number?

16 A Yes.

17 Q Did he ever text you anything regarding the protests or  
18 curfews or anything like that?

19 A Not that I recall.

20 Q Who would text you about the protests or curfews or  
21 anything like that?

22 A I would get continuous updates during the protests from  
23 the Fusion Center and occasionally from a supervisor on  
24 the scene, and, like, from Vetter or somebody if they're  
25 at the command post, but that would be it.

1 Q Okay. What about from the fire and police  
2 commi ssi oners?

3 A Never.

4 Q Domi ni c Leone?

5 A Never.

6 Q Common counci l members?

7 A No.

8 Q Al an Kesner?

9 A No.

10 Q But they're all preserved in the ci ty server?

11 A Yes, as a matter of fact if I could just say one thing,  
12 when you asked me who was present in the emergency  
13 operations, Al an Kesner was also present too. I forgot  
14 to say that.

15 Q Was Hanna Kol berg there?

16 A No. I knew there was somebody else, i t was Al an.

17 MS. MOTLEY: Okay.

18 EXAMI NATION

19 BY MR. SCHWAB:

20 Q So you said that you didn't have any one-on-one  
21 conversations with Mayor McBride about the preparation  
22 or the drafting of the proclamation for public  
23 emergency?

24 A That's correct.

25 Q Were you involved in groups that talked about it?

1 A No.

2 Q Were you -- did you ever review a draft of the  
3 proclamation?

4 A I don't remember if I did or not.

5 Q Okay. When did you first learn that a proclamation  
6 would be declared?

7 A I don't remember the date of the proclamation, but  
8 probably right around that time.

9 Q Okay. I want to hand you what is -- we'll start with  
10 this, we are going to mark this Exhibit 2. I will give  
11 you a minute to just review it.

12 (Discussion off the record.)

13 BY MR. SCHWAB:

14 Q You've had a chance to review it?

15 A Yes.

16 Q Do you see your name on here?

17 A I do.

18 Q So you received this e-mail?

19 A I believe I did.

20 Q This is dated September 17th?

21 A Yes.

22 Q And this refers to the emergency declaration?

23 A Yes.

24 Q Can you tell me who else on this e-mail is a member of  
25 the Wauwatosa Police Department?

1 A Nobody else.

2 Q Okay. Can you tell me who James Archambo is?

3 A He is the city administrator.

4 Q Okay who is James Case?

5 A Fire chief.

6 Q So who is Melissa Weiss?

7 A She is a communications person and assistant to  
8 Mr. Archambo.

9 Q Who is Laura Conklin?

10 A She was the health officer, she has since left the city.

11 Q And who is Laura Stephens?

12 A Laura was Laura Conklin's assistant, and now she has  
13 since been named the health officer.

14 Q Okay. Do you recall this e-mail?

15 A Vaguely.

16 Q And can you tell me what the purpose of this e-mail was?

17 A Well, Alan says he put together a generic emergency  
18 declaration for the mayor to use, and he asked for any  
19 feedback if we had suggestions.

20 Q Did you ever respond to this e-mail?

21 A I don't think I did.

22 Q I'm going to hand you what is marked as Exhibit 3.

23 A Okay.

24 Q You've had a chance to review this \*\*\*\*\*e-mail?

25 A Yes.

1 Q Were you on this e-mail?

2 A I'm sorry?

3 Q Were you a recipient of this e-mail?

4 A Yes.

5 Q Who was this written by?

6 A Captain Vetter.

7 Q Okay. Who is Michael Schultz?

8 A He's a captain that just retired.

9 Q Who is Jack Morrison?

10 A He is a captain assigned -- he was assigned  
11 administration, but he now -- he is assigned to the  
12 medical complex bureau.

13 Q Who is Abby Pavlic?

14 A Sergeant Pavlic is assigned as a public information  
15 officer.

16 Q Who is Joseph Roy?

17 A Administrative Lieutenant.

18 Q So I Count five members of the Wauwatosa police on this,  
19 is that correct?

20 A Yes.

21 Q And then Alan Kesner, Dennis, and James Archambo?

22 A Yes.

23 Q Do you recall this e-mail?

24 A Yes.

25 Q Were you involved in the content of this e-mail?



1 A I was not.

2 Q So sergeant, or Captain Vetter says, "The PD and the  
3 City EOC continue to meet and pin down operational plans  
4 for the DA announcement?

5 A Yes.

6 Q Who from the PD was meeting with the city EOC?

7 A I'm guessing it would be Vetter, and he would be with  
8 some of his supervisors to formulate the plan.

9 Q Okay. Were you kept abreast of that?

10 A I was aware that they were having a meeting and getting  
11 the plan together, but, yes.

12 Q So earlier when you said that you weren't aware of the  
13 emergency proclamation until September 30th, that was  
14 incorrect?

15 A I am not sure because I don't know when it was actually  
16 issued.

17 Q Okay. What is the date of this e-mail?

18 A September 24th.

19 Q Okay. And are they referring to a declaration of  
20 emergency in this e-mail?

21 A In the second to last paragraph they said, we'll need a  
22 declaration signed by you.

23 Q Operational plans were for what in this context?

24 A To prepare in case we had disturbances in our community.

25 Q Were there ever the operational plans for enforcement of

1 the emergency declaration?

2 A I believe so.

3 Q Okay.

4 (Discussion had off record.)

5 BY MR. SCHWAB:

6 Q Are you familiar with this?

7 A Yes.

8 Q Did you have a role in drafting this?

9 A I did not.

10 Q Who drafted this?

11 A This is from Captain Vetter.

12 Q Did he write the entire thing?

13 A He authored it and may have had other people's input  
14 into it. He's the one who prepared it.

15 THE COURT REPORTER: He is the one that  
16 prepared it?

17 THE WITNESS: Correct.

18 BY MR. SCHWAB:

19 Q And just to be clear, it begins, "On Wednesday,  
20 October 7th, the Milwaukee County DA John Chisolm plans  
21 to release a 'Community Briefing' "?

22 A Yes.

23 Q This operational plan was directly related to the same  
24 day, the same conduct that was the basis for the  
25 emergency declaration?

1 A Yes.

2 Q Should they be understood as two parts of the city's  
3 response, this document and the emergency proclamation?

4 A I am not sure I understand. This document is a police  
5 department document, so it wouldn't be something that  
6 the city would be aware of at all.

7 Q Was the mayor made aware of this?

8 A This document, no, I don't believe so.

9 Q The mayor wasn't consulted?

10 A No.

11 Q Okay. So would you agree this was being drafted as part  
12 of the plans for the emergency declaration and curfew?

13 A Yes.

14 Q And you were aware that this was being drafted before  
15 October 6th?

16 A Yes, I was, but I am not sure when I became aware of it.

17 Q Did you instruct Captain Vetter to prepare this?

18 A No.

19 Q Did Captain Vetter just do this on his own?

20 A Captain Vetter is assigned to handle the operations  
21 aspect of the department, so he would determine what  
22 need to be done.

23 Q Would he have consulted you before?

24 A He would have let me know what he's doing, and I would  
25 say, "go ahead and work on it."

1 Q But you wouldn't have the given final approval?

2 A I probably attended a meeting once it was totally done,  
3 and sat in on some of those meetings when they were  
4 doing the final draft.

5 Q Okay. On September 24th, there's discussion of the  
6 emergency declaration, there's discussion of this, you  
7 were aware that the curfew was at least being  
8 contemplated at that time?

9 A Yes.

10 Q And did you inform any members of the common council  
11 that a curfew was going to be coming?

12 A That what was coming, a curfew?

13 Q That a curfew would be instituted?

14 A No, I did not.

15 Q Did you inform, and this is prior to October 6th, on  
16 October 5th even, at any time prior to the actual  
17 October 6th order, did you tell anyone -- or was it  
18 October 7th, prior to the October 7th order, did you  
19 ever talk with any common council members or let them  
20 know this would be coming?

21 A No.

22 Q Did you talk with any business owners about this?

23 A No.

24 Q Did you instruct any of your officers to let business  
25 owners know there would be a curfew?

1 A No.

2 Q So is it fair to say --

3 EXAMINATION

4 BY MS. MOTLEY:

5 Q Did you let anyone within the fire and police commission  
6 know about this curfew?

7 A No.

8 EXAMINATION

9 BY MR. SCHWAB:

10 Q Why didn't you confer with anyone on the common council  
11 on this?

12 A As I said earlier this morning, they're not in my chain  
13 of command, I don't report to the common council, so I  
14 don't feel it's my duty to keep them abreast of  
15 everything that I do.

16 Q Do you ever talk with them?

17 A I used to.

18 Q Why not anymore?

19 A I think the common council has done some things, and  
20 their actions have indicated that they have not  
21 supported what the police department has done throughout  
22 things, and I have a complete lack of trust in their  
23 abilities.

24 Q Like what?

25 A When we first started having issues in our community,

1 I'm talking back in probably May, then when we had the  
2 disturbances at city hall, do you remember those, ma'am?

3 MS. MOTLEY: I do.

4 THE WITNESS: Common council members who were  
5 to run meetings could not handle running the meeting and  
6 let the meetings get out of hand. So I think that was  
7 one of the reasons we'll we've had as many difficulties  
8 in our community as we have, because they were unable to  
9 handle the meetings. So I have a complete lack of  
10 confidence in the way they conducted themselves. So I  
11 limited my contact with them, and I deal with the city  
12 administrator.

13 BY MR. SCHWAB:

14 Q So it was because they couldn't run a meeting well?

15 MS. BAYNARD: Object to the form of the  
16 question.

17 THE WITNESS: In my opinion they let the  
18 things that happened in our community, they took a  
19 hands-off approach because they were afraid of getting  
20 protested by their own residents, there were protest at  
21 fire and police commissioner residence periodically  
22 throughout the summer. The common council members never  
23 had that at all, so they weren't would going to say  
24 anything one way or another, in my opinion.

25 BY MR. SCHWAB:

1 Q So your relationship -- your professional relationship  
2 with common council is dependent on their support for  
3 you?

4 A In this case, I have always had good support from common  
5 council over the years, to that degree it goes up and  
6 down because there are 16 common council members.

7 MS. MOTLEY: 17, right?

8 THE WITNESS: 16.

9 MS. MOTLEY: 17, according to the website.

10 THE WITNESS: There is 16.

11 MS. MOTLEY: There's 17 common council  
12 members, there is 16 alder-persons, but 17 common  
13 council members, correct?

14 THE WITNESS: That's not true.

15 MS. MOTLEY: The website is wrong.

16 MS. KNOWLTON: -- (inaudible) -- you're  
17 correct, there is 16 alders.

18 THE WITNESS: I thought so.

19 MS. KNOWLTON: Yes.

20 BY MR. SCHWAB:

21 Q So the common council members, did you feel they weren't  
22 supportive of the police?

23 A That's my opinion.

24 Q Okay. Did that influence how you conducted your job?

25 A No.

1 Q Did it influence how you communicated with them?

2 A Yes.

3 Q What else did you withhold from them?

4 A I don't withhold anything.

5 Q How important is it for the city government to elect  
6 officials who support the police?

7 A Things run a lot smoother, especially at budget time, if  
8 they support the police department.

9 Q Do police allow their performance of their jobs under  
10 you to be affected by whether they feel supported by  
11 their elected officials?

12 A I don't think so.

13 Q Do they enforce the law differently depending on how  
14 supportive they are of you?

15 A No.

16 Q You've seen a lot across the country, certain police  
17 departments saying they were not going to enforce laws  
18 as stringently, or let's see what happens when we --  
19 when the police are defunded, have you seen some of  
20 that?

21 A Yes.

22 Q Did you ever engage there any of that?

23 A I did not.

24 Q Would you have allowed any of your police officers to  
25 engage in any of that?



1 A No.

2 Q They didn't?

3 A Not that I'm aware of.

4 Q But you took personal offense to some of the language  
5 the common council members used?

6 MS. BAYNARD: Objection to the form of the  
7 question, it misstates his testimony.

8 THE WITNESS: I wouldn't say personal offense.  
9 You know, after 40 years in law enforcement it takes a  
10 lot to offend me. So whatever their opinions were, they  
11 didn't have their -- they are entitled to their  
12 opinions, but I can respond the way that I think is  
13 appropriate. I still do my job and I do it  
14 professionally, but remember I answer to the mayor and  
15 the city administrator.

16 So even when we have a major incident that  
17 happens, I don't refer -- I don't contact the common  
18 council members. I call Mr. Archambo, and he says, I  
19 will notify the alders that we had this -- "Let's say  
20 it is a robbery or something happened, I don't do that.  
21 BY MR. SCHWAB:

22 Q In August of this year your police union issued a  
23 public -- a press release saying they had lost all  
24 confidence in the mayor, are you familiar with that?

25 A Yes.

1 Q Had you lost confidence in the mayor at that point?

2 A I did not.

3 Q Did you talk with your officers about that?

4 A I have.

5 Q What did you tell them?

6 A As I recall, I think the mayor sometimes - well, I told  
7 them the mayor might have different political viewpoints  
8 than what we have, or some of us, but I think he's a  
9 good guy. I have known him for many years. He was --  
10 (inaudible) -- when I started in Wauwatosa. He was the  
11 head of the civil service commission at that time, and  
12 when I needed to -- different things, he was very  
13 supportive.

14 So after he was off the commission and became  
15 an alderperson, I always got along with him then too.  
16 So I have always had a good working relationship with  
17 him. And I think the mayor, and what I told him, I  
18 said, the mayor is a nice man. He is always a  
19 gentleman. Even if he disagreed with you, he would  
20 always listen to you, you know, and he always responded  
21 professionally. So I have never had unkind words with  
22 him, or never a disagreement where will we were angry at  
23 each other. So I have always enjoyed that relationship.

24 Q Why did the police pull the vote and put out a press  
25 release saying they had no confidence in the mayor?

1 MS. BAYNARD: Objection, calls for  
2 speculation. Go ahead.

3 THE WITNESS: I don't know why they would do  
4 that. They -- they have opinions too.

5 BY MR. SCHWAB:

6 Q Do you think it's appropriate for the police to try to  
7 influence the political process?

8 A I don't know if they're influencing the political  
9 process, but as a union they have the right to have  
10 their voice.

11 EXAMINATION

12 BY MS. MOTLEY:

13 Q Are you part of the police union?

14 A Never.

15 Q So you've always had confidence in Mayor McBride?

16 A Yes.

17 Q Do you remember the listening session of July 22nd?

18 A Oh, yes.

19 Q And Mayor McBride was in charge of that listening  
20 session, right?

21 A Yes.

22 Q What did you think about that?

23 A I think the city handled it horribly.

24 Q How?

25 A During that entire listening session when people were

1           supposed to come to the camera or come to the microphone  
2           to speak their mind about that, whatever their issues  
3           were, there were people that stood behind that  
4           microphone with signs that said Joseph Mensah was a  
5           murderer, and I was also an accomplice to murder. For  
6           five hours I had to endure seeing my picture on the TV  
7           and being called an accomplice to murder. I've said, I  
8           have never been accused of driving without a taillight  
9           in my entire career.

10                       It was hurtful, and I think it was wrong of  
11           the city to allow that to happen. I don't necessarily  
12           fault the mayor for that because he wasn't in control of  
13           the TV or production or whatever, but I think it was  
14           wrong in the way it was handled.

15       Q     Did you voice -- I will mark this as Exhibit 5, is this  
16           the picture you're talking about?

17       A     Yes, that's the picture.

18       Q     Did you voice your concerns about this to the mayor or  
19           the common council members?

20       A     Yes, I voiced it to two common council members, I  
21           believe, and also to Mayor McBride.

22       Q     Which common council members?

23       A     I think it was that meeting on -- I'm not sure of the  
24           date of the meeting, but I think it was Alderman Stipich  
25           (Phonetic) and Alderman Wilson.

1 Q Did you voice your concerns verbally or in writing?

2 A Verbally, I would never voice my concerns like that in  
3 writing.

4 Q Did you voice your concerns to Mayor McBride also?

5 A In person, yes.

6 (Discussion had off record.)

7 EXAMINATION

8 BY MR. SCHWAB:

9 Q So you sent a letter on September 10th, on  
10 September 17th an e-mail went around with the beginnings  
11 of an emergency proclamation, it looks like on  
12 September 24th, and it just so happens these seem to be  
13 in weekly increments, or, Captain Vetter sent this  
14 e-mail, so during this period the emergency proclamation  
15 is being drafted, and the operational plan is being  
16 drafted as well, is that your understanding?

17 A I think so, yes.

18 Q And your only input was the September 10th letter?

19 A I don't know if I had any other, I don't think, I don't  
20 recall.

21 Q Do you know if any of your -- if Captain Vetter or  
22 anyone else had any input into the emergency  
23 proclamation?

24 A I would be speculating, but I would guess that Vetter  
25 would, but I don't know that for sure.

1 Q Okay. I'm going to hand you what is marked as Exhibit  
2 6, and it's the emergency proclamation, so I would like  
3 to go paragraph-by-paragraph and just go through some of  
4 this with you and just get your personal knowledge.

5 A Okay.

6 Q Now, just to check, you hadn't seen this until  
7 September 30th?

8 A Whenever it was issued, that's when I would have seen  
9 the final copy.

10 Q So we'll start with the second paragraph, "whereas -- "  
11 and we can just read it and not put it on the record,  
12 but it says, "based upon recent experience with protests  
13 concerning the continued employment of Officer Mensah,"  
14 and "upon community response to decisions and actions  
15 regarding police officers nationwide, most recently in  
16 Kenosha," -- "it is anticipated an emergency will exist  
17 in the City of Wauwatosa," just to be clear, when it was  
18 issued there was no emergency in Wauwatosa on  
19 September 30th, is that correct?

20 A Correct.

21 Q It was speculative?

22 A Yes, it was in preparation.

23 Q But where it says, "it is anticipated that an emergency  
24 will exist," that is all guesswork, is that correct?

25 A Yes.

1 Q Okay. And you enacted -- this enacted a curfew between  
2 the hours of 7:00 p.m. and 6:00 a.m. for the entire  
3 city, is that correct, that looks like in Paragraph 5,  
4 4?

5 A Yeah, except for going to and from work, et cetera,  
6 as it is stated here.

7 Q Do you know if your officers ever inquired into whether  
8 people were going to or from work when they arrested  
9 people under this curfew?

10 A I don't know.

11 Q Should they have?

12 A Depends on the circumstance of what they came across  
13 people.

14 Q Would it be unlawful to arrest someone if they were in  
15 one of these exceptions?

16 A It wouldn't have -- yeah, it would have been -- it  
17 wouldn't have violated the emergency proclamation if one  
18 of those exceptions that's true.

19 MR. SCHWAB: Okay.

20 EXAMINATION

21 BY MS. MOTLEY:

22 Q And just to be clear, violating an emergency  
23 proclamation, that is not criminal, correct?

24 A I don't think so, but, again, it has to be in the  
25 context.

1 EXAMINATION

2 BY MR. SCHWAB:

3 Q Did you instruct your police officers to enforce this?

4 A I don't think I directly instructed them, but, again, we  
5 had our operations center operating and our command  
6 post, so it would have been passed down and given them  
7 the authority to do that.

8 Q When they went out on October 7th, the first night?

9 A Yes.

10 Q Before they went out, did every officer read this?

11 A I don't know if they were told they had to read it or  
12 not.

13 Q Usually officers have a good grasp of what state laws  
14 and municipal ordinances are so they can know exactly  
15 they can stop someone and when someone is free to go,  
16 correct?

17 A Correct.

18 Q And in order to enforce this, they would have needed to  
19 have been instructed on a special law, correct?

20 A They would have had to know the contents of it, yes.

21 Q Who would have instructed them to enforce this?

22 A I am guessing the supervisors that were working on that  
23 particular night.

24 Q Okay. Do you know if people were arrested for violating  
25 the curfew that night, or those nights in October?



1 A I believe there were some people.

2 Q For being outside after 7:00 p.m.?

3 A Yes.

4 Q And that alone was the basis for some people?

5 A No, I don't think that was why they were arrested.

6 Q So nobody was arrested solely for violating the curfew?

7 A I think there was circumstances involved when people  
8 were arrested.

9 Q Tell me about those circumstances.

10 A I will just be speculating, but if people are, as I said  
11 earlier, if they are out walking their dog or they are  
12 coming back from somewhere or wherever, they would not  
13 get arrested for a curfew violation.

14 Q What would be the basis for why someone would be  
15 arrested for a curfew violation?

16 A If they were involved in doing something that was  
17 unlawful or did not obey the officer's request.

18 Q So if someone was out to protest, that would be grounds  
19 for arresting them?

20 A After 7:00 p.m. when the curfew was in effect, yes.

21 Q So if on October 7th or October 8th I walk down the  
22 street with a sign that said, "Chief Weber is an  
23 accomplice," your officers would have arrested me?

24 A Maybe and maybe not.

25 Q What would make that determination?

1 A It depends on what their workload was at the time, if  
2 you are just a single person walking by yourself, the  
3 officers had other people that they had to deal with --

4 Q But they could have arrested me, if they had lots of  
5 free time at that moment, they could have arrested me?

6 A They could have.

7 Q Is that your order?

8 A My order, no, it is the order of this proclamation.

9 Q Do you investigate or look into whether orders are  
10 lawful?

11 A If the order comes from the city hall with a city  
12 attorney who is drafting an order, then I do not.

13 Q Do you believe -- have you ever stated that you will not  
14 enforce an illegal order?

15 A There's one time.

16 Q What was that time?

17 A Several years ago when the whole issue was about  
18 sanctuary cities.

19 Q Tell me more about that.

20 A There were people wanted our city to become a sanctuary  
21 city. The council was debating that, and I spoke at the  
22 common council meeting at that time, and I said,  
23 cooperate with the federal government because we have  
24 officers assigned to the federal task forces  
25 including -- crimes task force, the secret service

1 financial and crimes task force, and we also had a gang  
2 crimes guy. So with the HYDAA (Phonetic) drug unit, so  
3 we get -- you know, we work in cooperation with those  
4 groups. So if the federal government, specifically the  
5 ICE, immigration and customs, if they asked us to make  
6 an arrest or whatever based on, you know, on their  
7 needs, we're not going to say, I said, we're not going  
8 to say we're not going to help them.

9 Q Would you say it's more accurate to say that you report  
10 to the federal government than the Wauwatosa city  
11 government?

12 A No, I report to the Wauwatosa city government.

13 Q If the Wauwatosa city government gave you an order that  
14 contradicted an order of ICE, you would still choose the  
15 order of ICE?

16 A I don't think that Wauwatosa city government is going to  
17 give me orders that are going to be contradictory to  
18 federal law and what federal law enforcement agencies  
19 require, and I said that that night, I said I would not  
20 comply with any order.

21 Q Are you familiar with the legal concept of federal  
22 commandeering?

23 A I am not.

24 Q Do you believe that the President of the United States  
25 can order you to do -- to enforce a federal law?

1 A That would be an interesting happenstance, if that  
2 occurred, but I don't listen to the President of the  
3 United States on anything.

4 Q Would you say that your belief on enforcing an ICE order  
5 was based on your professional opinion or your personal  
6 opinion?

7 A Professional opinion.

8 Q Was that also your personal opinion?

9 A It is probably somewhat intertwined on that, but I try  
10 to obey lawful orders and we cooperate with our law  
11 enforcement partners, so that would be it, yes.

12 Q If the city attorney told you that the city council or  
13 the mayor had the right to make Wauwatosa a sanctuary  
14 city, would you have listened to the city attorney or  
15 declare the city attorney's opinion unlawful?

16 MS. BAYNARD: Objection, improper  
17 hypothetical. Go ahead.

18 THE WITNESS: I would determine the city  
19 attorney's interpretation of unlawful. The way I would  
20 look at it is I would do what I think is right, and if I  
21 get in trouble, the city attorney would get me out of  
22 it.

23 BY MR. SCHWAB:

24 Q So you would disobey a city attorney if you thought he  
25 was wrong?

1 A I would.

2 Q Would you do your own investigation?

3 A If it came to that, I probably would have to.

4 Q Would you speak with your own lawyer in determining  
5 whether to follow an order from the mayor signed off by  
6 the city attorney?

7 A I don't know if I would speak to my own lawyer at that  
8 point. I think I would probably first check with the  
9 district attorney's office, somebody from there.

10 Q Okay. Do you have the authority yourself to declare a  
11 curfew?

12 A I do not.

13 Q Who does have the authority?

14 A I believe the mayor does.

15 Q Okay. Does the mayor have this right himself, is it his  
16 sole decision?

17 A I am not sure.

18 Q Okay. Would it worry you if you found out that the  
19 mayor didn't have that authority and you were enforcing  
20 a law that was unlawful?

21 A It would worry me to the point, in this case I knew that  
22 the city attorney's office was involved, so I was  
23 comfortable with it.

24 Q What if the city attorney or the City of Wauwatosa  
25 declared that we were going to reinstitute segregation,

1 would you enforce those orders?

2 A Who declared that?

3 Q The city council.

4 A I don't think anybody could order me to enforce  
5 something that I think is unlawful.

6 Q Even if the city attorney signed off on it?

7 A I don't care.

8 Q So there were times you would know that the city  
9 attorney was wrong?

10 A I think you have to do what you think is right, and the  
11 standard I have always believed in is you act reasonably  
12 and in good faith. In good faith you are trying to do  
13 the right things, I think that means a lot.

14 Q Okay. When did the FBI get involved in this?

15 MS. MOTLEY: Can we take a break, if you guys  
16 don't mind?

17 (A recess was taken.)

18 MS. MOTLEY: So let's get started. It's 2:25.

19 BY MR. SCHWAB:

20 Q Was the FBI involved in the response to the October  
21 curfew?

22 A Yes, to some degree, but I saw them at the command post  
23 doing some things, but exactly what their details were,  
24 I am not sure exactly what their assignment was.

25 Q Were the U.S. Marshals involved?

1 A I think they were.

2 Q Are there any federal buildings in the City of  
3 Wauwatosa?

4 A Not that I'm aware of.

5 Q Were they here to enforce federal law?

6 A Well, that's what their jurisdiction is.

7 Q Did you confer jurisdiction on them?

8 A I don't confer jurisdiction on federal agents.

9 Q Can you bring them in as mutual aid partners?

10 A I believe we can.

11 Q Did you?

12 A Again, I don't know if that is something that we have to  
13 do because we work with the marshals when it comes to  
14 doing a lot of things and we would -- (inaudible) -- the  
15 marshal's task force and also the FBI.

16 Q Do you know who asked the FBI to assist in this?

17 A I don't.

18 Q Did it come from someone in the police department?

19 A It had to have.

20 Q But it wasn't you?

21 A It was not.

22 Q Okay. Same thing with the marshals?

23 A Correct.

24 Q Do you know if FBI agents interrogated any arrestees?

25 A I don't know.

1 EXAMINATION

2 BY MS. MOTLEY:

3 Q Why did the FBI interrogate people?

4 A I don't know if they did.

5 Q You have no idea if the FBI questioned people for the  
6 October curfew?

7 A I have no idea.

8 Q Did you get a briefing after the October curfew by any  
9 of your Wauwatosa police officers?

10 A After the curfew, are you talking about after the end of  
11 the night, or --

12 Q Well, after the end of the night.

13 A I would get a summary report of what the activities  
14 were.

15 Q Who would write that report?

16 A I think Lieutenant Roy did.

17 Q Lieutenant Roy wrote a report, and he would e-mail that  
18 to you?

19 A Yes.

20 Q He would e-mail at bweber@Wauwatosa.net?

21 A Yes.

22 Q And he would do this every night in the October curfew?

23 A I think so.

24 Q Was it common, would Wauwatosa officers write reports  
25 after every night of protesting in the city?



1 A I don't know what -- when they would write their reports  
2 because they still had to write reports. I don't know  
3 when they had the time to do it.

4 Q For instance, like the August 13th curfew, the one-day  
5 curfew that was enacted by Mayor McBride, do you recall  
6 that?

7 A One-day curfew?

8 Q Yes, it was the same day that the WPOA (Phonetic) took  
9 their no countenance vote against Mayor McBride.

10 A I don't remember the one-day curfew.

11 Q Okay. Do you recall the August 14th, when protesters  
12 were protesting outside Mayor McBride's house?

13 A There was so many protests outside his house, I don't  
14 know which one was which.

15 Q Do you recall when there was a protest outside Mayor  
16 McBride's house where Wauwatosa police called in and  
17 used their mutual aid relationships to bring in other  
18 law enforcement officers?

19 A I don't know the date, but I remember that they did  
20 that.

21 Q After that day of protesting, would there have been a  
22 written report by Lieutenant Roy or anyone else within  
23 the Wauwatosa Police Department also?

24 A Depending on what happened at the mayor's house, there  
25 may or may not have been.

1 Q Okay. Were there reports ever written after protesting  
2 outside, for instance, the police and fire commission  
3 members' houses?

4 A Not necessarily.

5 Q Okay. When did you ask the FBI to help with the  
6 protests of October?

7 A I didn't ask the FBI.

8 Q When did Captain Vetter ask for the FBI to be here to  
9 help with protests?

10 A I don't know.

11 Q But he did at some point?

12 A He or somebody did.

13 Q Somebody within the Wauwatosa Police Department?

14 A Yes.

15 Q When did you ask for the U.S. Marshals to help with the  
16 October protests?

17 A I did not.

18 Q When did someone with the Wauwatosa Police Department  
19 asked for the U.S. Marshals to come and help with the  
20 protest?

21 A Probably somewhere around that same timeframe, you will  
22 have to ask the FBI, I don't know.

23 Q But it was somebody within the Wauwatosa Police  
24 Department?

25 A I am guessing, yes.

1 Q Presumably Captain Vetter?

2 A He would be the most likely that would, but because they  
3 work a lot with the detective bureau, it could be  
4 Lieutenant Wrucke or somebody else that requested them.

5 Q What were the duties of the FBI at the protests of  
6 October?

7 A I have no idea.

8 Q What were the duties of the U.S. Marshals at the protest  
9 of October?

10 A I don't know, I wasn't out there.

11 Q But you were aware they were out there when you were at  
12 the command center, the command post, correct?

13 A I think I found out later on that were there.

14 Q You found out later on that they were in Wauwatosa at  
15 that point in time?

16 A Yes.

17 Q Where did the FBI -- who gave the FBI permission to work  
18 out of Wauwatosa Police Department, was that you?

19 A No.

20 Q Was that Captain Vetter?

21 A I don't know.

22 Q But someone gave the FBI permission to work out of the  
23 Wauwatosa Police Department?

24 A I don't know if they were working out of our department  
25 or they were working at our command post.

1 THE COURT REPORTER: Working at where?

2 THE WITNESS: Our command post.

3 BY MS. MOTLEY:

4 Q But they were working in Wauwatosa that night, the FBI,  
5 either at the command post or at the Wauwatosa Police  
6 Department?

7 A I think so.

8 Q Okay. And who gave permission to the U.S. Marshals to  
9 arrest people?

10 A U.S. Marshals are a federal agency, they have their own  
11 set of rules. They don't need my permission.

12 Q As far as you were aware, there weren't any fugitives of  
13 justice in Wauwatosa during the October 2020 curfew,  
14 correct?

15 A That would be beyond something I would know.

16 Q Would it be something that presumably you would know in  
17 case, you know, the U.S. Marshals wanted assistance of  
18 the Wauwatosa Police Department, correct?

19 A If they wanted assistance, then I might know.  
20 Otherwise, if they're there, I have no way of knowing  
21 what they're doing.

22 Q What did you know that the U.S. Marshals was doing  
23 there?

24 A I think they probably responded as mutual aid like a lot  
25 of other agencies did.

1 Q Okay. And in terms of these mutual aid contracts -- is  
2 that the proper term, contracts or agreements?

3 A Agreements.

4 Q So who is the contact person with the U.S. Marshals that  
5 Wauwatosa Police Department works with?

6 A I don't know what the person's name is.

7 Q You mentioned that there is an FBI liaison within the  
8 Wauwatosa Police Department, right?

9 A Yes.

10 Q Who is that?

11 A Now I think it's detective -- or, excuse me, Officer  
12 Steve Schmidt.

13 Q Was Steve Schmidt the one who was the liaison for the  
14 U.S. Marshals and the FBI during the October curfew?

15 A I don't know, it could be him or it could be Detective  
16 Marty Keck (Phonetic).

17 Q Okay. So either Detective Keck or Officer Schmidt, one  
18 of the two or both?

19 A Probably.

20 Q How many Wauwatosa police officers were working during  
21 the October curfew?

22 A I don't have an exact number, but there was a lot  
23 because we had people on 12-hour shifts.

24 Q Was it most of the Wauwatosa police force?

25 A Yes.

1 Q Were officers assigned to different areas, or how did  
2 that work?

3 A Different areas, yeah, different assignments.

4 Q Why did the U.S. Marshals arrest -- (inaudible)?

5 THE COURT REPORTER: Arrest who?

6 MS. MOTLEY: Taleavia Cole, T-A-L-E-A-V-I-A,  
7 C-O-L-E.

8 THE WITNESS: I don't know why they did.

9 BY MS. MOTLEY:

10 Q When did you give permission for the officers to take  
11 people's cell phones?

12 A I never gave permission to take cell phones.

13 Q When did Captain Vetter give permission for people's  
14 cell phones to be taken?

15 A I'm not aware that he did.

16 Q Did any Wauwatosa police officers give permission for  
17 cell phones to be taken?

18 A Not to my knowledge.

19 Q Why did Wauwatosa Police Department keep people's cell  
20 phones if you weren't aware that cell phones were going  
21 to be taken?

22 A I don't know if that was for some evidentiary purpose or  
23 not, I don't know.

24 Q With regards -- and you agree that -- were there any  
25 people with regards to the October protests that were

1           actually charged and convicted of a crime?

2       A     I don't know.

3       Q     Okay. Do you recall if there were any people for the  
4           October protests that were referred to the district  
5           attorney's office to be charged for a crime?

6       A     I'm not sure.

7       Q     Okay. But you are aware that a lot of people received  
8           noncriminal municipal tickets for the protests of  
9           October 20th?

10      A     Yes.

11      Q     And based on it being a noncriminal charge, their phones  
12           should not have been taken, correct?

13      A     I don't know what the circumstance would be.

14      Q     Okay. Are you aware that -- why did the Wauwatosa  
15           Police Department keep Taleavia's phone for 22 days?

16      A     I don't know.

17      Q     Did you ask?

18      A     I wasn't aware of those things. I am not --

19      Q     Why did the Wauwatosa Police Department physically  
20           assault Tracey Cole?

21                   MS. BAYNARD: Objection to the form of the  
22           question. Argumentative.

23                   THE WITNESS: I'm not aware she was assaulted.

24           BY MS. MOTLEY:

25      Q     Were you aware of any protesters being physically hurt?

1 A I believe Mrs. Cole later claimed she -- her arm was  
2 hurt.

3 Q Do you realize that Mrs. Cole was sent to the hospital  
4 that night?

5 MS. BAYNARD: Objection to the form of the  
6 question. Go ahead.

7 THE WITNESS: I think I found out later she  
8 went to the hospital.

9 BY MS. MOTLEY:

10 Q Did you realize that one of your Wauwatosa police  
11 officers actually helped her into the ambulance that  
12 night?

13 A I am not aware.

14 Q Did you have any type of conversations with officers  
15 after the October curfew?

16 A Any conversations?

17 Q Yeah, because it seems like you don't know a lot, to be  
18 completely honest.

19 MS. BAYNARD: Object to the form of the  
20 question, argumentative. That was a statement, not a  
21 question, but go ahead.

22 THE WITNESS: The question was?

23 BY MS. MOTLEY:

24 Q Did you have a conversation with your law enforcement  
25 officers about what happened during the curfews of



1           October 2020?

2       A     After the fact I probably had numerous conversations  
3           with people as I see them in hallways or different  
4           places.

5       Q     After the fact, are we talking about October 12th after  
6           the fact, or midnight after the fact?

7       A     I don't record the conversations I have, so I don't  
8           know.

9       Q     Do you know who you talked to about the curfew within  
10          the Wauwatosa Police Department?

11      A     No, I don't.

12      Q     Did you have any concerns about the excessive force that  
13          was used by Wauwatosa police officers during the October  
14          curfew?

15                   MS. BAYNARD: Object to the question,  
16                   compound. Go ahead.

17                   THE WITNESS: Describe what excessive force  
18                   was used.

19                   BY MS. MOTLEY:

20      Q     Tracy Cole was assaulted, she ended up in the hospital.

21      A     If she was assaulted, she wasn't assaulted by a police  
22          officer.

23      Q     How do you know? You didn't talk to anyone, you don't  
24          know.

25                   MS. BAYNARD: Objection to the form of the

1 question. It is not a question. Go ahead.

2 THE WITNESS: If Mrs. Cole was assaulted, she  
3 should have made a police report or contacted the  
4 district attorney's office.

5 THE DEFENDANT: Can I ask a couple of  
6 questions?

7 MS. MOTLEY: Go ahead.

8 EXAMINATION

9 BY MS. KNOWLTON:

10 Q Would you characterize this operations plan, and you  
11 said -- would you characterize this operation plan as  
12 large?

13 A Yes.

14 Q In scale?

15 A Probability the largest scale we have ever done in  
16 Wauwatosa.

17 Q Have you done -- has there been anything of this  
18 magnitude in your career prior to Wauwatosa?

19 A No.

20 Q And you did see this as exhibit -- whatever number, the  
21 operations plan?

22 A Yes.

23 Q The listed operational partners here --

24 MS. BAYNARD: What page are you referring to?

25 MS. KNOWLTON: On Page 2 carrying over to

1 Page 3.

2 THE WITNESS: Yes.

3 BY MS. KNOWLTON:

4 Q That's significant, right, I mean, you would  
5 characterize that as a large undertaking?

6 MS. BAYNARD: Object to the question,  
7 compound, go ahead.

8 THE WITNESS: Yes.

9 BY MS. KNOWLTON:

10 Q And those certainly, it seems like there are law  
11 enforcement agencies here that are referenced as "PD," I  
12 am interpreting that as police department.

13 A Correct.

14 Q But there are other agencies here that aren't  
15 necessarily law enforcement like the Department of  
16 Transportation.

17 MS. BAYNARD: Are you asking a question?

18 MS. KNOWLTON: I am.

19 BY MS. KNOWLTON

20 Q That is not a law enforcement agency, right?

21 A That's correct.

22 Q Or, like, when you said the Mayfair security force, is  
23 that a law enforcement -- a trained law enforcement  
24 agency?

25 MS. BAYNARD: Objection, asked and answered.

1 Go ahead.

2 THE WITNESS: They're trained, but they're  
3 private security.

4 BY MS. KNOWLTON:

5 Q Okay. So they haven't gone through the vetting that you  
6 previously this morning discussed in terms of the  
7 qualifications and credentials of your officers, is that  
8 right?

9 A That is right.

10 Q So with something this comprehensive, why wouldn't you  
11 have your reports in writing?

12 MS. BAYNARD: Objection, it misstates prior  
13 testimony. What reports are you referring to?

14 MS. KNOWLTON: Thank you for that being on the  
15 record, but he can ask if he has a question about my  
16 question.

17 THE WITNESS: What report?

18 BY MS. KNOWLTON:

19 Q When you said that you received briefings, or, rather,  
20 e-mails, written reports in the evening after the nights  
21 of protests, is that the extent to any report, written  
22 report, you would get about this operation?

23 A At that time, yes, that would be all I would get, just a  
24 summary.

25 Q Okay. So after this four or five days, you did not do

1           any other formal debriefing with your department or any  
2           personnel in your department?

3       A     We did a debriefing, but I think it was weeks later.

4       Q     Okay. Was that in writing at all, or recorded?

5       A     I don't think it was recorded, but it was with some of  
6           the operational commanders involved, and we talked about  
7           what had happened.

8       Q     Okay. And the operation -- the people in charge of the  
9           operations then, you're saying, were members of your  
10          police department?

11      A     Yes.

12      Q     And when you were in the CVMIC offices those evenings,  
13          was that every evening of the curfew?

14      A     Yes.

15      Q     And were you viewing any real time video of anything  
16          happening?

17      A     I was.

18      Q     And was that from drone footage, or what footage was  
19          that from?

20      A     There was drone footage, there was also some people who  
21          are -- were at the events posted live video from their  
22          cell phones.

23      Q     Okay. That wasn't your officers, you're saying that  
24          was, or was it, was that your officers?

25      A     Wasn't ours, I would see some people calling themselves,

1 different things, and they had their phones out  
2 constantly. From where I was at, we had split screens  
3 so we could see drone footage, live things here, and  
4 there was a number of different views.

5 Q In your command center where you were, did you record  
6 any of that?

7 A No.

8 Q The drones, you and your department did have control of  
9 some drones, is that right?

10 A We have somebody that was in charge of the drone, but  
11 that wasn't a City of Wauwatosa Police Department  
12 employee.

13 MS. KNOWLTON: Okay.

14 EXAMINATION

15 BY MR. SCHWAB:

16 Q Who was in charge of the drone?

17 A There was a person that works for the public works  
18 department, Paul Vesprackus (Phonetic) is his name.

19 THE COURT REPORTER: Could you spell that last  
20 name?

21 THE WITNESS: I don't know how to spell it.

22 MS. MOTLEY: Could you say his name again?

23 THE WITNESS: Vesprackus, V-E-S-something,  
24 he's the GIS manager, geographical interface-something  
25 or other, so he does things with drones, and he would

1           have been the operating the drone for us. I'm not sure  
2           if the FBI had some footage too.

3 BY MR. SCHWAB:

4 Q Did other police departments bring drones?

5 A Not that I am aware of.

6 Q Does the Wauwatosa Police Department even own a drone?

7 A We do not.

8 Q So this was a City of Wauwatosa drone?

9 A Yes, I think so.

10 Q A civilian drone?

11 A Yes.

12 Q Called into duty?

13 A Sorry?

14 Q Called into duty?

15 A Yes.

16 EXAMINATION

17 BY MS. MOTLEY:

18 Q So you mentioned you were surveying different people's  
19 social media sites at the command post?

20 A The operation center.

21 Q Sorry, the operation center. Whose social media posts  
22 were you monitoring?

23 A I don't know the names. The people have different names  
24 that they use. They would just say, this is whatever  
25 the name is it was, and I don't know who that is.

1 Q Who are the people -- I know you don't know the handle  
2 names, but who are the names of the people that -- whose  
3 sites that you monitored?

4 A I didn't copy those down.

5 Q Was Taleavia Cole one of them?

6 A I don't think so.

7 Q Frank Nitty (Phonetic)?

8 A No.

9 Q Vaun Mays?

10 THE COURT REPORTER: Hold on.

11 BY MS. MOTLEY:

12 Q V-A-U-N, M-A-Y-S, Khalil Ahmad (Phonetic)?

13 A No.

14 Q Kimberly Motley?

15 A No.

16 Q Deja Vishny (Phonetic)?

17 A No.

18 Q The People's Revolution?

19 A No.

20 Q Indivisible Tosa?

21 A No.

22 Q -- (inaudible) --

23 The COURT REPORTER: Hold on.

24 BY MS. MOTLEY:

25 Q But you know that there are -- Sean Kafer (Phonetic)?



1 A No.

2 Q Kevin Glowicki, G-L-O-W-I-C-K-I?

3 A I never heard those names.

4 Q You haven't heard any of these names?

5 A I have heard some of the names, I never heard of Kevin  
6 Glowicki or Sean, whatever his name is.

7 Q Who can we talk to to see whose sites were being  
8 monitored, who would know that information?

9 A I don't know because there was -- one of the sites we  
10 were monitoring, there was a woman who just went by her  
11 first name. This was -- and she was outside, she said  
12 this is -- she was showing live video, and there was a  
13 name, but I don't remember what it is.

14 Q Would Dominic Ritekowski, your crime analyst, would he  
15 know what sites are being monitored by the Wauwatosa  
16 Police Department?

17 A He probably would know.

18 Q Okay. And Dominic, did he go through the rigorous  
19 police hiring process also?

20 A As a civilian employee it would not be quite the same as  
21 what we do for police officers, but we do a pretty rigid  
22 background check on people.

23 Q Okay. Now, has the Wauwatosa Police Department ever  
24 reached out to any social media companies like Facebook  
25 and asked to shut down people's Facebook pages, or asked

1 for information from specific Facebook pages?

2 MS. BAYNARD: Objection, compound.

3 THE WITNESS: Not that I'm aware of.

4 BY MS. MOTLEY:

5 Q Who would be aware of that, would that be Dominic again?

6 A He might know that, or Lieutenant Roy might know that.

7 Q Okay. And in terms of -- well, with regards to Facebook  
8 pages, you said you don't know who Dominic is referring  
9 to when he says, here is a new updated list. There are  
10 around 40 people I fully ID'd. When did you task  
11 Dominic to ID protesters?

12 A I don't task Dominic to do anything, he works for the  
13 lieutenant in the detective bureau.

14 Q He works for the Wauwatosa Police Department?

15 A Correct.

16 Q Who is his direct supervisor?

17 A Ultimately it would be Lieutenant Wrucke in the  
18 detective bureau.

19 Q What is the nerd lab?

20 THE COURT REPORTER: Nerd lab?

21 BY MS. MOTLEY:

22 Q Yes.

23 A Nerd lab is an area in our police department where  
24 you're able to retrieve information from computers, cell  
25 phones, to the degree that they want to do an

1 i n v e s t i g a t i o n .

2 Q O k a y . W h o i s i n c h a r g e o f t h e n e r d l a b ?

3 A A g a i n , i t i s p a r t o f t h e d e t e c t i v e b u r e a u , L i e u t e n a n t  
4 W r u c k e .

5 Q W h o t o l d p e o p l e t o -- w h y w e r e p h o n e s t a k e n t o t h e n e r d  
6 l a b t h e w e e k o f O c t o b e r 20 t h , t h e p r o t e s t s ?

7 A I d o n ' t k n o w .

8 E X A M I N A T I O N

9 B Y M R . S C H W A B :

10 Q I f t h o s e p h o n e s w e r e n o t v o l u n t a r i l y g i v e n , w o u l d a  
11 s e a r c h w a r r a n t b e r e q u i r e d t o d o w h a t e v e r t h e y d o i n t h e  
12 n e r d l a b ?

13 A D e p e n d i n g o n w h a t t h e y ' r e d o i n g , I w o u l d t h i n k s o m e t i m e s  
14 i f y o u w a n t e d t o g e t s o m e b o d y ' s d a t a o r s o m e t h i n g , y o u  
15 h a v e t o g e t a s e a r c h w a r r a n t .

16 Q Y o u ' v e b e e n a p o l i c e o f f i c e r f o r 40 - s o m e t h i n g y e a r s , y o u  
17 h a v e a p r e t t y g o o d s e n s e o f t h e c o n s t i t u t i o n a l l i m i t s o f  
18 s e a r c h a n d s e i z u r e , c o r r e c t ?

19 A N o t t o t h e d e g r e e I d i d w h e n I w o r k e d t h e s t r e e t s .

20 Q Y o u r u n d e r s t a n d i n g i s t h a t i n o r d e r t o s e a r c h a p h o n e  
21 y o u w o u l d n e e d a w a r r a n t ?

22 A I w o u l d t h i n k s o .

23 Q O k a y . W o u l d i t t r o u b l e y o u i f y o u r o f f i c e r s w e r e  
24 s e a r c h i n g p h o n e s w i t h o u t a w a r r a n t ?

25 A T h o s e -- t h o s e g u y s k n o w w h a t t h e l a w i s b e t t e r t h a n I

1 do when it comes to search and seizure of cell phones,  
2 because cell phones is -- when I was working the street  
3 there were no such thing. So what the limitations are  
4 and what they can get off of cell phones or what they  
5 needed to do is not really my (inaudible).

6 EXAMINATION

7 BY MS. MOTLEY:

8 Q Why were phones searched after the October 20th protest  
9 that were taken from people, why were they searched?

10 A I don't know.

11 Q Why were people's SIM cards taken out of their phones on  
12 the October 20th curfew?

13 A You know, I know you said that I don't seem to know too  
14 much, but that's really not what I do. I have no idea.  
15 I wouldn't even know how to get a SIM card out of a  
16 phone.

17 Q You are aware that SIM cards are commonly taken out of  
18 phones by Wauwatosa police officers in the nerd lab just  
19 as a general concept?

20 A I'm not aware that it is commonly done. I don't know.

21 Q But you are aware that it's done?

22 A That's the first time somebody has brought it up to me,  
23 you can take a SIM card out of a phone.

24 EXAMINATION

25 BY MR. SCHWAB:

1 Q While you were watching drone footage, did every night  
2 become a civil unrest?

3 A The first two nights were the most troublesome. After  
4 that, it seemed like it stabilized better, and then we  
5 saw less and less problems in our city.

6 EXAMINATION

7 BY MS. MOTLEY:

8 Q Well, I think just to correct the record, you defined  
9 civil unrest before as violence and damage to property.

10 A Okay.

11 Q Right. So there wasn't any civil unrest that happened  
12 on October 20th?

13 MS. BAYNARD: October of 2020?

14 MS. MOTLEY: Yes, October of 2020.

15 THE WITNESS: Well, the two dates that we were

16 --

17 BY MS. MOTLEY:

18 Q October 7th through the 12th -- let me just clean this  
19 up, sorry. With regards to, there wasn't any property  
20 damage during the October curfew, correct?

21 A No, that is not correct.

22 Q What property was damaged?

23 A There were windows broken along North Avenue.

24 Q That was October 7th?

25 A That was probably the 7th or 8th.

1 Q Do you know what windows?

2 A Areas along North Avenue near 92nd Street.

3 Q Okay.

4 A There was some apartment buildings, and I was able to  
5 see people on video actually smashing out windows.

6 Q Was there any violence that occurred the week of the  
7 protests of October?

8 A I think there was.

9 EXAMINATION

10 BY MR. SCHWAB:

11 Q Was any of that violence not performed by police  
12 officers?

13 A Sorry?

14 Q How much of that violence was done by police officers?

15 A I don't believe any violence was caused by police  
16 officers.

17 EXAMINATION

18 BY MS. MOTLEY:

19 Q Do you think shooting rubber bullets at people is  
20 violence?

21 A I think police officers need to defend themselves, and  
22 they were getting bottles and rocks thrown at them, they  
23 needed to defend themselves and enforce the law. Yes, I  
24 don't think that is violence by police officers. They  
25 can defend themselves.

1 Q But defending yourself, you can still impose violence,  
2 right?

3 A If you commit violence against a police officer, you  
4 will be met in kind.

5 Q Were any of your officers hurt, or any officers hurt the  
6 week of October?

7 A I talked about the one guy that got hit by the car.

8 Q That was in July at the Cheesecake Factory.

9 A Then there was also police officers that, when things  
10 were thrown at them, I think in October, they had  
11 scraped up legs and things like that.

12 Q Which officers were hurt?

13 A I don't know which officers.

14 EXAMINATION

15 BY MR. SCHWAB:

16 Q So you said when you act violently towards a police  
17 officer he can respond in kind?

18 A Yes.

19 Q What is the goal of his response?

20 A Take control of the situation.

21 Q Is it to punish you?

22 A No, it is to get in control.

23 Q If I were to throw something at an officer, a water  
24 bottle, is it okay for him to shoot me?

25 A No.

1 Q Shoot me with a rubber bullet?

2 A Depends.

3 Q If I were to do this, can he hit me in the face?

4 A If you just threw something at him --

5 THE COURT REPORTER: Wait.

6 MS. MOTLEY: When you do that --

7 BY MR. SCHWAB:

8 Q If I threw something at him, and then immediately put my  
9 hands on my head and surrendered, is it okay for him to  
10 punch me in the face?

11 A No.

12 Q You just said he can respond in kind.

13 A If he needs to take control of the situation, if you  
14 have already surrendered, there is no need to do  
15 anything more.

16 Q So it is not that he can respond in kind, but he has the  
17 authority to take control of the situation?

18 A I was referring to in the heat of the moment, if you're  
19 fighting with the officer, he can respond the same way.

20 Q Do you believe your officers ever use force to punish  
21 people?

22 A I don't.

23 Q Ever?

24 A I don't think so.

25 Q You watched those videos over those nights, and you



1           monitored I suppose every minute?

2       A     Not every minute, but I was there.

3       Q     Was everyone that was out there a criminal?

4       A     You're referring to protesters?

5       Q     Yes.

6       A     No.

7       Q     Were many of them criminals?

8       A     I didn't do a tally or anything like that, some of them  
9           were committing unlawful acts.

10      Q     Did you see any conduct by your police officers that  
11           worried you?

12      A     No.

13      Q     No police officer responded in a way that was more than  
14           the least force necessary?

15      A     Anything that I saw, I was watching the videos from far  
16           away. It was hard to see what is going on. If I had  
17           been at the scene, maybe I would have saw things maybe  
18           differently. There was nothing that I saw that caused  
19           me concern at that time.

20      Q     Afterwards, did any officers come forward with  
21           complaints of other officers using excessive force?

22      A     Not to me.

23      Q     Have you ever in your 31 years with the Wauwatosa Police  
24           Department seen one officer report another?

25      A     Yes.

1 Q Tell me the circumstance.

2 A The one that I referred to earlier, when I had been  
3 there a short time, an officer took some guy behind the  
4 mall property and roughed him up, as it was told to me.  
5 I got that officer to resign because that is how we did  
6 it. I also had an officer that brought somebody in the  
7 sally port at one point, this was probably around 2001,  
8 so 20 years ago, and the prisoner spit at the officer,  
9 so I think he set him down rather harshly on the ground.  
10 Another officer reported that to me, so that police  
11 officer that is committing the act, I think I gave him a  
12 20-day suspension and a severe warning. I have never  
13 had a problem again.

14 There's been certain circumstances over the  
15 years, if something happened or somebody used harsh  
16 language or something, police officers come to me and  
17 they've said, "this is what I saw, and, chief, that is  
18 not what we're all about here. We don't do those  
19 things." I have always had great respect for the way  
20 our people treat others. One of the things I look at  
21 when we hire people, I look for people that have a sense  
22 of compassion and integrity. I think those are the two  
23 biggest qualities I look for when hiring people.

24 Q You said earlier this was, I guess, the biggest  
25 operational event of your career?

1 A Yes.

2 Q Did you guys do a debrief?

3 MS. BAYNARD: Objection, asked and answered.

4 Go ahead.

5 THE WITNESS: Yes.

6 BY MR. SCHWAB:

7 Q Tell me about that debrief.

8 A I think I said it was a couple of weeks later. We sat  
9 down, and -- as a supervisory staff, and talked about  
10 things we could have done differently or what went on.

11 Q Was anything written down?

12 A Not by me.

13 Q Why did you guys write down the operational report but  
14 not your debrief report?

15 A I don't know if they wrote down anything or there were  
16 any notes made for something in the future. I was not  
17 part of that operational thing so I didn't feel that I  
18 needed to write any notes.

19 EXAMINATION

20 BY MS. MOTLEY:

21 Q What things did you say in that debrief that you should  
22 have done differently?

23 A I didn't say anything that I should have done  
24 differently.

25 Q What --

1       A     In general conversations, I think if you look through  
2             some of the problems we had, it was, initially, the  
3             first night we had trouble with getting the radio  
4             channels synchronized with what we needed to do, so what  
5             we needed to do differently, to get the radios ready.  
6             Some of the staging areas, we thought we might have  
7             wanted to change a couple of those just because it would  
8             be more out of sight and certainly easy to respond to.  
9             There may have been other things that we've talked  
10            about. I do remember talking about the radio channels  
11            and the sites.

12       Q     Who participated in the debrief?

13       A     Many of the supervisors that were there.

14       Q     Like who?

15       A     If you look at command staff, it would probably be  
16             chief, captains and lieutenants, and probably some  
17             sergeants.

18       Q     Was Mayor McBride there?

19       A     No.

20       Q     Did Mayor McBride express to you concerns that he had  
21             about how the police behaved during the October curfew?

22       A     He did not.

23       Q     Did Mayor McBride, was he with you at command staff, or  
24             most of the time that you were there?

25       A     At the operations center, yes, he was.

1 Q I am sorry, operations center.

2 A Yes, he was there.

3 Q What hours were you there?

4 A Usually about 5:00 or 6:00 in the afternoon, I was there  
5 until about 2:00 or 3:00 in the morning.

6 Q Was Alan Kesner also there?

7 A Yes.

8 Q And why did you -- let me strike that. Whose idea was  
9 it to protect the fire and police commissioners' houses?

10 A I think that was Captain Vetter who said we needed to do  
11 that.

12 EXAMINATION

13 BY MR. SCHWAB:

14 Q Is Vetter up for your job?

15 A He will be the interim chief, but he did not apply for  
16 chief's job.

17 EXAMINATION

18 BY MS. MOTLEY:

19 Q Did any Wauwatosa police officers apply for the chief's  
20 job?

21 A I don't believe so, nobody wants it.

22 Q Tough job.

23 A It can be.

24 EXAMINATION

25 BY MR. SCHWAB:

1 Q So I reviewed a bunch of arrest reports, have you had a  
2 chance to review them?

3 A Here and there, I don't read a lot of arrest reports.

4 Q Even related to this lawsuit that you're a party to?

5 A I read the one report -- (inaudible).

6 Q I noticed in almost every single one when people are  
7 arrested they're taken to the ground, what does that  
8 mean?

9 A They're not always taken to the ground.

10 Q Okay. But what is the purpose of taking someone to the  
11 ground?

12 A Get control of them so they can't resist anymore.

13 Q So they must be resisting first?

14 A Usually.

15 Q What about just directing someone on the ground?

16 A There's been a circumstance, if the officer believes it  
17 is more safe to have better control over what is going  
18 to happen, they may direct him to the ground.

19 Q Is it ever uncalled for or inappropriate to take -- to  
20 either take or direct someone to the ground?

21 A I'm sure there's instances that it's uncalled for.

22 Q If you saw your officer witness someone jaywalking, and  
23 he ran up and said, "get on the ground," would you think  
24 that was excessive?

25 A Probably.

1 Q Okay. Do you believe that just the simple act of  
2 violating a curfew order is sufficient grounds for  
3 directing someone to the ground?

4 A Just violating the order, no.

5 Q Okay. Why do police officers break car windows? Why  
6 did they do so during these protests?

7 A Can you be more specific? I don't know about them  
8 breaking car windows.

9 Q Is it okay -- I don't know. I mean, have you gotten  
10 complaints about broken car windows?

11 A I have not.

12 Q If I were to tell you that multiple vehicles' windows  
13 were broken, would that concern you?

14 A Are you saying the police officers broke them?

15 Q Yes.

16 A If I had reports, then I would certainly do an  
17 investigation as to why they were broken.

18 Q If I were to tell you that I know someone -- no, I  
19 actually don't. If I were to tell you that a police  
20 officer threw his flashlight through someone's window,  
21 would that concern you?

22 A I would want to know the circumstances, absolutely.

23 Q Especially if he didn't arrest them afterwards?

24 A Yes.

25 Q Is it acceptable to break someone's window, and then let

1           them drive through, and then tell them to leave?

2       A     It would certainly not be something that I would  
3           condone.

4       Q     How about stop sticks, what are those used for?

5       A     Deflexion devices to stop somebody from driving  
6           recklessly.

7       Q     Can you use them to stop a protest?

8       A     Depending on the circumstance and what has transpired at  
9           the time, yes.

10      Q     Someone is driving five miles an hour with a group  
11           protesting on the road, is it appropriate to destroy  
12           someone's tires?

13      A     Had they been given a warning to move off the road or  
14           whatever, those are judgment calls. We used stop sticks  
15           back in May when we had the drivers driving so quickly  
16           down the roads. And we probably used stop sticks on 100  
17           vehicles in that period of time, and that was  
18           appropriate because they were driving so recklessly. It  
19           depends on the circumstance.

20      Q     If they weren't given a warning, would it be  
21           appropriate?

22      A     You know, every police officer conducts themselves a  
23           certain way. I myself would give a warning, get the car  
24           off the road or I'm going to do something. If the car  
25           is only driving five miles an hour, as you said, it is



pretty easy to avoid a stop stick driving five miles an hour.

Q Sure, some officers put knees people's necks, we're trying to understand what is appropriate conduct for your officers.

A An officer put his knee on somebody's neck.

Q He's not the only one that has ever done that. Have you ever put your knee on someone's neck?

A I never have.

Q Have you ever put your knee on someone's back?

A	No.
---	-----

Q Do you know if any of your officers ever put their knees on people's necks?

A They should not do that.

Q You saw the Chauvin video, did you call a meeting to demand no officer ever do that?

A We put out to our people that we are not doing those kinds of procedures. It's never been brought to my attention that our officers ever did that before, and we do not do that.

Q What about utilizing choke-holds?

A      Never have.

Q Do you have a ban on choke-holds?

A We do.

## EXAMINATION

1 BY MS. MOTLEY:

2 Q With regards to September 20th, did Mayor McBride tell  
3 you about any credible threats?

4 MS. BAYNARD: September 20th?

5 BY MS. MOTLEY:

6 Q I'm sorry, September 30th, thank you.

7 A Not that I'm aware of.

8 Q Did you receive -- and you didn't have any reports of  
9 any written credible threats, correct?

10 A Just the stuff we hear on social media that I talked  
11 earlier, the things that I saw and heard, yeah.

12 Q What did you hear?

13 A Well, you know, the talk, and burn down the mall, shut  
14 it down.

15 Q Do you know what dates those were?

16 A I don't.

17 Q They could have been any time?

18 A Right.

19 Q Certainly if -- well, let me strike that. What is a  
20 credible threat?

21 A I think a credible threat would be some sort of  
22 statement that they're going to do something that would  
23 be unlawful and could be -- and could cause harm to  
24 somebody, damage to property, or something that would be  
25 disruptive to a business.

1 Q So if someone just put something on Facebook and says,  
2 "we should burn Mayfair down," just a Facebook post, a  
3 random person, that is the definition in your eyes of a  
4 credible threat that would warrant a curfew?

5 A No, I would want to see who made that threat. Is it a  
6 person that we know that maybe has got some sort of  
7 problem, you know, mental problem, and is not really --  
8 maybe it is somebody who has just got an alcohol  
9 problem, for example, and they're not really going to do  
10 anything, then that would not considered a credible  
11 threat. If we know there's somebody that has got a  
12 history of violence or whatever and has made those  
13 statements, then we would take it a little more  
14 seriously.

15 Q In terms of those credible threats that you take  
16 seriously, you would certainly go and investigate it and  
17 perhaps talk to the person, right, or instruct your  
18 officers to do that because you wouldn't want anyone in  
19 the community to get hurt?

20 MS. BAYNARD: Objection, compound. Go ahead.

21 THE WITNESS: I think that if something like  
22 that happened the investigators would follow up on that,  
23 I don't have to tell them, here is what you need to do.  
24 If you have got a credible threat or what is deemed to  
25 be a credible threat, then the civilian analyst would

1 say to the lieutenant, "here is what I've got," and the  
2 lieutenant would say, "I want you, you, you to go  
3 investigate this situation and find out."

4 BY MS. MOTLEY:

5 Q As far as you know, no one was investigating any  
6 credible threats on September 30th of last year within  
7 the Wauwatosa Police Department?

8 A If they were or they were not, that wouldn't something  
9 they would tell me.

10 Q That is something that would end up in a report,  
11 correct, investigating?

12 A If nothing came of it, probably not.

13 Q Okay. But based on the emergency proclamation, it  
14 wasn't -- that was made because of the Alvin Cole  
15 decision that was going to come down from the DA's  
16 office and also based on what happened in Kenosha and  
17 Minneapolis and Portland, correct?

18 A Yes.

19 Q Do you know, when did the DA make his decision, not to  
20 the public, but when did you know about the DA's  
21 decision?

22 A I knew about eight days before, I think that was  
23 September 29th, I had a meeting at the district  
24 attorney's office.

25 Q And who determines with the Wauwatosa Police Department

1           which businesses should know about the emergency  
2           proclamation and which businesses should not know?

3       A     I don't know if any businesses were told.

4       Q     Okay. There were some businesses that boarded up prior  
5           to, how did --

6       A     Yes.

7       Q     And you've heard reports there were Wauwatosa police  
8           officers that were telling businesses to board up, do  
9           you know which officers were doing that?

10      A     I don't.

11      Q     Do you know which businesses, like, who told them to  
12           tell the businesses to board up?

13      A     I don't know that.

14      Q     Should they have been doing that?

15      A     I think if they wanted to, I'm just speculating, if they  
16           wanted to tell somebody, here is what might happen, or  
17           here is what happened in Kenosha, you might want to  
18           consider this. Maybe if you're a friend of the  
19           businesses owner, and say, here is what I would do, if  
20           somebody asked opinions.

21                   MS. BAYNARD: Can we take a break?

22                   MS. MOTLEY: It's 3:10 now.

23                   (A recess was taken.)

24                   MS. MOTLEY: It's now 3:21.

25   BY MS. MOTLEY:

1 Q Before September 30th, 2020, you've already testified  
2 that the mayor didn't talk to you about any credible  
3 threats, correct?

4 A He didn't talk to me about any.

5 Q Did Alan Kesner talk to you about any credible threats?

6 A No.

7 Q Did anyone at the fire and police commission talk to you  
8 about any credible threats?

9 A No.

10 Q Anyone at the common council?

11 A No.

12 Q Did you authorize people to be strip-searched?

13 A No.

14 Q Why were people strip-searched?

15 A I am not aware that any were.

16 Q Okay. But you were in charge of the operations?

17 A Not that operation.

18 Q Not unlawful -- if someone was strip-searched, would you  
19 determine that to be unlawful?

20 A There's a very limited scope on how you can do that  
21 according to state statute. I am not aware of anybody  
22 being strip-searched.

23 Q Did you talk to any other heads of law enforcement  
24 before the October curfew?

25 A Probably.

1 Q Do you know who?

2 A I think other police chiefs.

3 Q Which names?

4 A I think Pat Mitchell from West Allis, Ken Touchouse  
5 (Phonetic) from Brookfield who has since retired, those  
6 would be the two main ones because they're our  
7 neighbors.

8 Q What about Waukesha County Sheriff, did you talk to him?

9 A Prior to this operation, in summertime I did.

10 Q What did you talk to him about?

11 A I thanked him for the assistance that they'd given us  
12 when we asked for mutual aid.

13 Q That was before the October curfew that you talked to  
14 him?

15 A Yes, I think so.

16 Q Did you talk to him after the October curfew?

17 A Probably.

18 Q Why were they strip-searching people at the Waukesha  
19 County Jail?

20 A I'm not aware of anybody being strip-searched in the  
21 Waukesha County Jail, that would not be anything I would  
22 know about.

23 Q Who was the person that gave you permission to use  
24 Mayfair Mall as, you know, a holding area, what's the  
25 name of that person?

1 A We have a holding area there already, so we don't need  
2 any additional authorization.

3 Q And you can use that 24/7?

4 A Yes.

5 Q Even though it's a private property?

6 A Yes.

7 Q Do you have a mutual aid agreement?

8 A We have a contractual agreement with them and have an  
9 office there.

10 Q Is that something the city pays for, that space?

11 A No, Mayfair gives us that space.

12 Q How long have you had that space?

13 A At least 15 years.

14 Q And who was the contact person for the National Guard  
15 for this operation in October?

16 A From the National Guard, we talked to General Knapp  
17 (Phonetic).

18 Q How many National Guard members were here?

19 A I think around 500.

20 Q How many FBI agents were here?

21 A I don't know.

22 Q Why were FBI agents sent from Portland to Wauwatosa?

23 A I have no idea where they bring their people from.

24 Q What about the U.S. Marshals, why were they here?

25 A Again, we have mutual aid with a lot of agencies and we



1           participate with them, so I don't know.

2       Q     Do you know how many people the U.S. Marshals arrested?

3       A     I don't.

4       Q     Okay. Why were people dropped off at random places in  
5           the City of Milwaukee after they were arrested?

6       A     I don't know where they were dropped off after they were  
7           transported out of our city to wherever they were booked  
8           or given their tickets or whatever happened, then they  
9           were released, and I don't know where those places were.

10      Q     Whose idea was it to force people back to Wauwatosa cars  
11           to drop them off at random places in the City of  
12           Milwaukee?

13      A     I don't know.

14      Q     Would Captain Vetter have been in charge of that?

15      A     I am not sure.

16      Q     Whose idea was it that people could just walk out of the  
17           police station after they were arrested the week of  
18           October?

19      A     I don't understand what you mean by "whose idea."

20      Q     Well, people were arrested and then sent to the  
21           Wauwatosa Police Department, people who wanted to walk  
22           home were told that they had to get into Wauwatosa  
23           police cars -- they had no choice but to get back into  
24           Wauwatosa police cars and then dropped off randomly in  
25           different parts of the City of Milwaukee, whose idea was

1           it to do that?

2                       MS. BAYNARD:  Objection to the question,  
3           compound.

4                       THE WITNESS:  I don't know whose idea it was.

5           BY MS. MOTLEY:

6       Q    Is that normal procedure of the Wauwatosa Police  
7           Department?

8       A    Never been before.

9       Q    Is it normal for the Wauwatosa Police Department to  
10          arrest people for speeding?

11      A    Yes.

12      Q    How many people do you arrest for speeding per year  
13          would you say, just for a speeding ticket, not drinking,  
14          just for a speeding ticket?  What I mean "arrest," I  
15          mean not just detained, but bringing to the Wauwatosa  
16          Police Department?

17      A    Actually transporting them to the station for speeding?

18      Q    Yes.

19      A    Not unless there was some other warrant for something,  
20          if it was just speeding, you would be issued a ticket on  
21          the street and released.

22      Q    How many people are arrested just for jaywalking, not a  
23          warrant, that are brought to the police station solely  
24          based on that municipal citation per year?

25      A    For jaywalking, I don't think I have ever seen a

1 jaywalking ticket.

2 Q How many people -- so it's not common procedure for  
3 people to be arrested for ordinance violations alone and  
4 to be brought before the Wauwatosa Police Department?

5 A No, there is a lot of people that are arrested for  
6 ordinance violations.

7 Q And they're brought and they are booked?

8 A Depending on what the violation is.

9 Q What are the violations that people are brought to the  
10 Wauwatosa Police Department and booked?

11 A It could be disorderly conduct, retail theft, which are  
12 significant because of the mall and so on, and the  
13 retail businesses, there is a lot of retail theft.

14 Q Let me ask you a better question. How many people were  
15 arrested -- how many people were arrested and ticketed  
16 for the May 31st through June 2nd curfew?

17 A I don't know how many.

18 Q Okay. Were you trying to stop the protest?

19 A Which protest?

20 Q Of October.

21 A When you say, "trying to stop the protest," we had the  
22 curfew in effect, so we were trying to enforce the law  
23 there.

24 Q Were you trying to have the protests end in the October  
25 curfew?

1 A I was trying to avoid acts of violence in our city.

2 Q Okay. Do you recall -- I mean, people were  
3 protesting --

4 EXAMINATION

5 BY MR. SCHWAB:

6 Q Have there been other protests in the past year aside  
7 from protests of police brutality in Wauwatosa?

8 A Probably.

9 Q Are you familiar with a protest or gathering at Mayfair  
10 Mall by Trump supporters?

11 A What month are you referring to?

12 MS. MOTLEY: November 21st, 2020.

13 THE WITNESS: Yes.

14 BY MR. SCHWAB:

15 Q And were any of those protesters arrested?

16 A I don't believe so.

17 Q Were any of them carrying guns?

18 A I heard they were.

19 EXAMINATION

20 BY MS. MOTLEY:

21 Q Why weren't they arrested, they were stopping traffic?

22 A Just having a gun is not illegal.

23 EXAMINATION

24 BY MR. SCHWAB:

25 Q Did any of them stop traffic?

1 A I heard that.

2 Q Were you aware of this protest before it happened?

3 A I think a couple days before I knew about it.

4 Q Are you familiar -- why was a curfew not called that  
5 day?

6 A It was a Saturday morning, I believe, so there's no need  
7 to have a curfew.

8 Q Are you familiar with pro-Trump militia members killing  
9 citizens in Kenosha this year?

10 A I am not.

11 Q You're not?

12 A I am not.

13 EXAMINATION

14 BY MS. MOTLEY:

15 Q Do you watch the news?

16 A I do.

17 EXAMINATION

18 BY MR. SCHWAB:

19 Q And Kenosha was a real key part of the basis for this?

20 A Yes.

21 Q And you're not aware that a 17-year-old took an AR-15  
22 and killed two people?

23 A I didn't say I wasn't aware of that.

24 Q What did you say?

25 A I said I am not aware -- you asked me if it was he was a

1 pro-Trump malitia, I don't know if he was a pro-Trump  
2 malitia person.

3 Q Are you aware of any violence at Trump rallies?

4 A At trump rallies?

5 Q Yes.

6 A Probabl y.

7 Q Do your police treat conservatives differently than they  
8 treat liberals?

9 A I don't think so.

10 Q Did they treat pro-Trump protesters differently than  
11 they treated antipolice protesters?

12 A No.

13 Q No?

14 A No.

15 EXAMINATION

16 BY MS. MOTLEY:

17 Q For the October 20th curfew, how many -- you didn't  
18 recover any guns from any protestors, correct?

19 A I don't know if we did or didn't.

20 Q But that would have been reported to you, right?

21 A Correct.

22 Q You don't recall receiving a report of any guns that the  
23 protestors had?

24 A If I had the report in front of me I could tell you, but  
25 I don't, so I don't remember.

1 Q For the October 2020 curfew, did you arrest any white  
2 supremacist or pro-Trump people that were armed for that  
3 that were also out there during the protest?

4 A For which date?

5 Q The October 20th curfew?

6 A I am not aware.

7 Q Are you aware that there were -- I hate to use the word.

8 MR. SCHWAB: Malitia.

9 MS. MOTLEY: I mean, I don't know that.

10 MS. BAYNARD: Counter-protesters.

11 BY MS. MOTLEY:

12 Q Are you aware that there were counter-protesters out on  
13 October 20th in Wauwatosa?

14 A I had heard that.

15 Q Were any of them arrested on that week?

16 A I don't know.

17 Q Were any of them -- okay, that's information that you  
18 would presumably get?

19 A I don't distinguish -- now, I don't know if this person  
20 was a counter-protester or a protester, I don't discern  
21 between them.

22 Q Did the Wauwatosa Police Department survey  
23 counter-protestors as they do TPR protestors?

24 A I don't know who what you mean by "survey."

25 MR. SCHWAB: Surveil.

1 THE WITNESS: Surveil?

2 MS. MOTLEY: Yes.

3 BY MS. MOTLEY:

4 Q Does the Wauwatosa Police Department surveil  
5 counter-protestors as they do protestors with The  
6 People's Revolution?

7 A Not to my knowledge.

8 EXAMINATION

9 BY MR. SCHWAB:

10 Q You said earlier that it was a violation of the curfew  
11 to simply be outside protesting, is that correct?

12 A Yes.

13 Q And you just said that there were also  
14 counter-protestors around, is that correct?

15 A I didn't say that.

16 Q You've heard that there were?

17 A Ms. Motley said there were counter-protesters, and I  
18 said that probably that's true.

19 Q Okay. And are you familiar with the concept of  
20 selective enforcement?

21 A Yes.

22 Q If it turned out that your police officers were, let's  
23 say, throwing water bottles to those that were out there  
24 to support police while arresting people that were out  
25 there to protest police, would that be a violation of



1 the consti tution?

2 A If they were --

3 Q If they were thanking those that supported them and  
4 arresting those that oppose them on the same night  
5 during the curfew --

6 A And the question is.

7 Q Would that be wrong?

8 A It would certainly give the appearance of not being  
9 uni formly impar ti al .

10 Q Does the Wauwatosa Police Department surveil people?

11 A Yes.

12 Q Tell me about that.

13 A Okay. There's a number of reasons why we would surveil  
14 somebody. We have an epidemic of car threats, for  
15 example, in our city right now. So if we know that  
16 there is a group of car thefts or people that are  
17 associated with car thefts operating in our city, we  
18 will probably try to find out where they're at, where  
19 their locations are. If we know there is a group of  
20 burglars, you know, there is a group of people who were  
21 -- somebody who is selling drugs, or a sexual offender  
22 who is hanging out by schools, there's many, many  
23 reasons why.

24 Q So in that sense, would that be sitting in a police car,  
25 or maybe not a police car, maybe in a non-marked vehicle

1	watchi ng?
---	------------

2 | A That coul d be part of i t.

3 Q Does the Wauwatosa Police Department electronically  
4 surveil people?

5	A	Probability.
---	---	--------------

6	Q	Probability?
---	---	--------------

7	A	Probably.
---	---	-----------

8 | Q Do you record or monitor social media accounts?

9	A	I do not.
---	---	-----------

10	Q	Does the Wauwatosa Police Department monitor social
11		media accounts?

12 A I don't know if they monitor as much as check them or  
13 whatever, as far as "monitor," I don't know what you  
14 mean.

15	Q	Why would they check someone's social media account?
----	---	--

16 A Because for whatever reason people seem to always want  
17 to talk about their exploits, so if there's a burglar or  
18 whatever, or somebody who is selling drugs, they like to  
19 flash their money, and they like to kind of show how  
20 successful they are. They put that stuff out there,  
21 we'll probably find that.

22 EXAMINATION

23 BY MS. MOTLEY:

24 Q Whose idea was it to survey people that are protesting?

25 A I don't know who would do that.

1 Q How long has the Wauwatosa Police Department been  
2 surveying protesters?

3 A Well, if you're saying that they are, I'm assuming that  
4 they might do it, but I don't know.

5 EXAMINATION

6 BY MR. SCHWAB:

7 Q Do you know if Wauwatosa Police Department surveils  
8 David Bowen (Phonetic)?

9 A I don't know that.

10 Q Do you know if the Wauwatosa Police Department has a  
11 file investigating David Bowen?

12 A I don't know if they have a file on him.

13 Q Do you, and does the Wauwatosa Police Department have a  
14 file on Tracy Cole?

15 A I don't know if they do.

16 Q Do you know if the Wauwatosa Police Department surveils  
17 Tracy Cole?

18 A I don't think so.

19 Q Do you know if Wauwatosa Police Department surveils any  
20 of the Cole family?

21 A I don't think they do.

22 Q Sit outside their door, sit outside their home?

23 A No.

24 Q Monitor their social media accounts?

25 A They might look at their social media accounts, whether

1 | they do or don't, I don't know.

2 Q Would it be proper to monitor social media accounts of  
3 those that express anti police opinions?

4 A I don't think we care if people are anti police as much  
5 as we would care if they are prone to violence or commit  
6 violent acts, then we would be more interested.

7 | EXAMINATION

8 BY MS. MOTLEY:

9 Q What does that mean, if a person is prone to violence?

10 A That they have a hi story of commi tti ng vi ol ent acts, or  
11 maybe they have a past arrest record for assaul ts or  
12 vi ol ent acts li ke that, i f they're posting thi ngs, I  
13 thi nk we woul d be more i nterested i n that, i f they were  
14 threateni ng somebody or threateni ng poli ce offi cers.

15 Q You have no information that anyone within the Cole  
16 family is prone to violence, correct?

17	A	No, that's not true.
----	---	----------------------

18	Q	Who is prone to violence in the Cole family?
----	---	--

19 | A Alvin Cole was prone to violence.

20 | Q (I naudi bl e).

21 THE COURT REPORTER: One at a time.

22 MR. SCHWAB: He's --

23 BY MS. MOTLEY:

24 Q People that are alive, I mean, it's pretty obvious we're  
25 talking about people that are alive?

1 A But Alvin Cole is deceased, but he was prone to  
2 violence.

3 Q Is that why he was shot, because he was prone to  
4 violence?

5 A Alvin Cole was shot because he had a firearm and fired  
6 it at a police officer.

7 Q Who told you that?

8 A You can see the video.

9 Q Who told you that?

10 A I watched the video.

11 Q Did you talk to Mensah about the Alvin Cole shooting?

12 A Eventually I did.

13 Q What did Mensah tell you?

14 A He told me exactly what is in the police reports.

15 Q What is that?

16 A Alvin Cole was running from the police officers near the  
17 -- the Cheesecake Factory, Alvin Cole was told to put  
18 down his weapon, you could hear on the video, "put it  
19 down -- "

20 Q No, what did Mensah tell you? That's the question.

21 A He told me what he saw, and he saw the gun still in his  
22 hand, and the shot went off, that is when he fired his  
23 weapon.

24 Q Mensah said he saw the gun?

25 A He did.

1 Q And Mensah also said that he saw the gun when the shot  
2 went off?

3 A I couldn't remember if he said that, he said he saw the  
4 gun in Alvin's hand.

5 Q In terms of, again, the question was: Is there anyone  
6 in the Cole family that is prone to violence?

7 A That I don't know.

8 Q Is anyone in the Cole -- is any of the social media  
9 accounts in the Cole family being surveyed?

10 MS. BAYNARD: Asked and answered, go ahead.

11 THE WITNESS: Not to my knowledge, no, they're  
12 not.

13 BY MS. MOTLEY:

14 Q Does the Wauwatosa Police Department have a policy for  
15 surveying people?

16 MS. BAYNARD: Surveilling.

17 THE WITNESS: I don't know if we do or not.

18 BY MS. MOTLEY:

19 Q But you would know because you're the chief policy  
20 maker, correct?

21 A You know, there's so many policies. As I said at the  
22 beginning of this, there is probably 100 or more. If  
23 there is policy on surveillance, that is probably  
24 something the detective wrote and authored, sure, I am  
25 surveilling people. I don't pay attention to that.

1 Q Even though someone else may have authored the policy,  
2 you're the one that signs off on it?

3 A Ultimately, yes.

4 Q So there's just so many policies that you can't remember  
5 all the policies?

6 A That's right.

7 Q Do you know of anyone that is being surveyed by the  
8 Wauwatosa Police Department that is part of protesting?

9 A I have no personal knowledge of that.

10 Q Who would have had personal knowledge of that within the  
11 Wauwatosa Police Department?

12 A Probably the detective bureau would.

13 Q Is there a specific person that we would need to talk to  
14 about that?

15 A Lieutenant Wrucke is the one in charge.

16 Q Has Mayor McBride ever asked the Wauwatosa Police  
17 Department to survey anyone?

18 A I don't think so.

19 Q And just to be clear, "survey," I mean, you know,  
20 sitting outside a person's house with a car, or social  
21 media, or by phone. That is what I mean when I use the  
22 word "survey."

23 MS. BAYNARD: Surveil.

24 BY MS. MOTLEY:

25 Q Surveil, sorry. Do you know if anyone within the fire

1 and police commission has asked the Wauwatosa Police  
2 Department to surveil anyone?

3 A No, they have not.

4 Q What about any common council members, have they asked  
5 that any people be surveilled?

6 A No.

7 Q The city administrator, has he asked that anyone be  
8 surveilled?

9 A No.

10 Q Alan Kesner, has he asked that anyone be surveilled?

11 A He has not.

12 EXAMINATION

13 BY MR. SCHWAB:

14 Q Does Wauwatosa Police Department keep a list of known  
15 protesters?

16 A I don't know if they do or they don't.

17 Q What would be the purpose of doing so if they did?

18 A I think if we kept a list, it would be so if we have  
19 further contact with them, or we could recognize who  
20 they are, if they have a list or pictures or whatever,  
21 people that we've arrested we have pictures of, so that  
22 would be helpful so people can identify who we're  
23 dealing with.

24 Q Do you normally keep a list of political associations of  
25 people?



1 A Political associations?

2 THE COURT REPORTER: I am sorry, I missed  
3 that.

4 THE WITNESS: I was just asking -- no, we  
5 don't keep an essential list.

6 BY MR. SCHWAB:

7 Q In people's files do you put a political party?

8 A No.

9 Q If they are a member of the chamber of commerce?

10 A No.

11 Q Do you know if the Wauwatosa police keep a list of the  
12 members of The People's Revolution?

13 MS. BAYNARD: Objection, asked and answered.  
14 Go ahead.

15 MR. SCHWAB: I asked about protesters.

16 MS. BAYNARD: I am pretty sure you covered The  
17 People's Revolution.

18 THE WITNESS: I don't know if they would or  
19 they don't, if they do or they don't.

20 EXAMINATION

21 BY MS. MOTLEY:

22 Q Do you know who are members of The People's Revolution?

23 A I know some.

24 Q Like who?

25 A I have heard the names of the people you mentioned

1 before.

2 Q Could you please repeat that for the record?

3 A I have heard the name Frank Nitty, Vaun Mays, Cleo  
4 Coleman (Phonetic), Brian Anderson, there's a couple  
5 others that if I heard the names I would recognize them.  
6 Every one of those people I just named I wouldn't  
7 recognize them if I fill saw them. I have seen their  
8 pictures before, and when they've showed up at different  
9 places or at city hall, they said, that was so-and-so,  
10 really, I see them so infrequently I just don't know who  
11 they are. I just know them by name.

12 Q So you've never directed any officers to develop a list  
13 of the members of TPR?

14 A No.

15 Q And you've never directed any of your officers to  
16 develop a list of known protesters?

17 A I never have.

18 Q Okay. Does the Wauwatosa Police Department utilize any  
19 facial recognition software?

20 A I don't think so.

21 Q Have you ever heard of Clear View AI?

22 A I have not.

23 Q Okay. What do you think of The People's Revolution?

24 A My personal opinion?

25 Q Uh-huh.

1       A     I think in this country, and I worry about this country,  
2             that people who call themselves "the revolution." I  
3             find that disappointing because I would like to think  
4             we're all one nation, and I truly believe in the oath  
5             that we take. So I'm disappointed in that.

6                     But having said that, I know many people who  
7             protest for whatever reason. I understand that, and I  
8             don't care. If they want to say, "this is what I do and  
9             I'm against police," fine, you have a right to do that.  
10            We protect those rights as much as we do people who are  
11            supportive.

12                    It's interesting in our country, you know it  
13            was several years ago we had the officers in Dallas that  
14            were killed, and at the same time those officers were  
15            trying to protect the people that were being assaulted  
16            by others. You know, it seems like when people say,  
17            "defund the police," I've got to tell you when that was  
18            going around over the last year, I was almost -- I  
19            seriously thought about telling our city, defund the  
20            police, do it. Let's give people what they want. If  
21            people really think that's the answer, then do it. I  
22            thought, no, that's probably not the right thing.

23                    I think at some point people are realizing  
24            that the lack of law enforcement is -- is going to be  
25            very problematic for our country. We all recognize the

1 right to protest. It's been that way my whole career.  
2 We always recognize that. It's disappointing when it  
3 happens, and what is hurtful is because of what happened  
4 in Minneapolis, prior to that Wauwatosa had a stellar  
5 reputation with its police department, and we were the  
6 department that many other departments turned to for  
7 guidance. We still, when we want to hire people, people  
8 want to come to Wauwatosa because this is where you  
9 learn how to be a police officer and how you do things,  
10 and there's a lot going on. We are still,  
11 word-of-mouth, we're able to hire people because of  
12 that.

13 So, you know, after 9/11/2001 when the Twin  
14 Towers went down, all of a sudden there were so many  
15 people that wanted to be police officers and  
16 firefighters, you couldn't hire people fast enough, now  
17 it is the other way around. As I've told people, you  
18 know, in my career, it's going to come back the other  
19 way. It has to. I mean, people are realizing already  
20 that the country is not going to be a good way if law  
21 enforcement doesn't do what their job is.

22 We're seeing police officers across the  
23 country, they are leaving in droves. The first time  
24 they are eligible to leave, they are leaving because  
25 they are saying, I don't want to do this anymore. As I

1           said earlier, as long as police officers act reasonably  
2           and in good faith, they will be fine. I still believe  
3           that, but at the same time I'm concerned about that too.  
4           What happens in Chicago tonight affects how it is going  
5           to happen in Wauwatosa tomorrow. If a cop in California  
6           does something tonight that he shouldn't do, it could  
7           affect our operation here.

8                       MR. SCHWAB: Okay.

9                                       EXAMINATION

10           BY MS. KNOWLTON:

11       Q    You referenced that you reviewed an arrest record before  
12           you came, was that mine?

13       A    That's it.

14       Q    That is the only record?

15       A    That's it.

16       Q    Do you think that I'm anti police?

17       A    No.

18       Q    Why not?

19       A    I think you're -- my opinion?

20       Q    Yeah.

21       A    I think you were just choosing to be difficult that day  
22           or night because the officers asked you on more than one  
23           occasion, just leave and comply with this. And you  
24           said, no, or you refused to do that. And I thought  
25           maybe you just wanted to make a statement here, but

1           what's the point of that? That was your decision. I  
2           don't think you're antipolice, and I hope that you're  
3           not antipolice seeing that you're here in Wauwatosa, but  
4           I don't know what the circumstance was for you that  
5           night, and I don't know what you were thinking about.

6                       That's not my -- that is not my area of  
7           concern. The fact is we respond to behavior, not what  
8           your intention was, but your behavior was, I am not  
9           leaving. You've got to leave because we have the curfew  
10          in effect. So we give people more than one chance, and  
11         you chose not to. So that is why we're here.

12        Q        Would it surprise you to know that even in the audio  
13           tape that we have that I was asking about how I could go  
14           home to the line of police officers?

15        A        I didn't see what the audio was, I would like to see  
16           what that said. I did not get that.

17        Q        I just want to say on the record, I appreciate that you  
18           don't assume I'm antipolice. I certainly, for the  
19           record, am not. And I appreciate that police officers  
20           have to put their lives on the line every single day.  
21           They choose to do that, that is a voluntary, noble  
22           choice, so it's an extremely unfortunate, sad situation.  
23           I appreciate that assumption.

24                       EXAMINATION

25           BY MR. SCHWAB:

1 Q Is it okay to ignore a police order when it is  
2 unconstititutional?

3 A It is not.

4 Q No?

5 A It is not.

6 Q What is a high value target?

7 A I didn't use that term myself, never have. I saw that,  
8 and I would think it would be somebody that is a person  
9 of interest for whatever their behavior was.

10 Q Am I a high value target?

11 A I hope not.

12 Q For the Wauwatosa Police Department?

13 A No.

14 Q Do you know if Kim is a high value target in one of your  
15 e-mails?

16 A One of my e-mails?

17 Q One of our e-mails of one of your officers in the  
18 Wauwatosa Police Department?

19 A I think Ms. Motley is an attorney, and I would like to  
20 think that, you know, as being an officer of the court  
21 that she's doing what she's supposed to be doing, and  
22 that we all operate under certain guidelines --  
23 (inaudible) -- I can imagine.

24 Q The mayor is?

25 A No he's not.

1 Q The mayor was?

2 A Never was.

3 Q Then why was his name put as a high value target in an  
4 e-mail within your department?

5 A I can explain that.

6 Q Sure.

7 A Detective Lewandowski (Phonetic), who was -- had  
8 investigated the shooting at Mensah's house that night  
9 in August, which by the way I guess you would look at  
10 that as, the shooting at Mensah's house is one of those  
11 credible threats that you asked about, so we knew there  
12 was violence directed towards Mensah.

13 MS. BAYNARD: Do you have a copy of this?

14 THE WITNESS: So what had happened was  
15 Lewandowski is writing, he is putting together a  
16 PowerPoint presentation to be presented to his  
17 supervisors, myself, the captains, about what is going  
18 on in our city, as a joke, internal, whatever, he puts  
19 this thing out. His sergeant or lieutenant who looks at  
20 this thing, they would say, "that's ridiculous, get it  
21 out of here. Erase it," which he does immediately.

22 Nobody else saw it. I didn't see it. No  
23 members of the department saw it other than the  
24 supervisors and Lewandowski. Isaiah Holmes, who writes  
25 a blog for some news thing, online news, requested open



1 records. So this is like a fingerprint on an open  
2 records. It just goes out there with the computer, and  
3 so he sees this and he brings it to the attention of the  
4 mayor. The mayor is all upset and contacts me about it.  
5 He says, "what is this all about?" I say, I don't know  
6 what you're talking about.

7 So I get the story. The mayor is upset by  
8 this. So I said, "mayor, you have to take that into  
9 context," and Mensah -- or, Lewandowski had investigated  
10 the incident of the shooting at Mensah's house that  
11 night. And he had also tried to contact David Bowen  
12 because Bowen was at that house that night, and nothing  
13 was done with it. So I think he was frustrated, so he  
14 kind of puts this thing out there.

15 BY MR. SCHWAB:

16 Q So I am sorry, was it a joke, or was he frustrated?

17 A Probably frustrated, I would think.

18 Q He was doing this in his official capacity, right?

19 A While he was working, yeah.

20 Q The statements of police officers matter, they mean  
21 something, right?

22 A Yes.

23 Q When an officer gives me a command, I'm not -- I don't  
24 have the -- (inaudible) -- to say, I bet he's just  
25 joking, right?

1 A Correct.

2 Q Did Mayor McBride sanction violence against Officer  
3 Mensah?

4 A Not to my knowledge, no.

5 Q Why did Officer Lewandowski write this?

6 MS. BAYNARD: Objection, calls for  
7 speculation. Go ahead, if you can.

8 THE WITNESS: I think Lewandowski was  
9 frustrated with the situation he was dealing with, and  
10 the mayor's position on some things, you know, as I  
11 pointed out earlier, that the union has taken an adverse  
12 opinion or position to the mayor, so I think he was  
13 frustrated with that, and that is why he wrote it.

14 BY MR. SCHWAB:

15 Q Are other officers frustrated with the mayor?

16 A Well -- (inaudible) -- from the union as you pointed out  
17 earlier, so I imagine they are.

18 Q So officer Lewandowski allowed his frustration with the  
19 mayor to impact his work?

20 A I don't think so.

21 Q He allowed it to influence his work?

22 A No.

23 Q No?

24 A No.

25 Q This was just a big ha ha?

1 A Yeah.

2 Q Tell me about these other jokes that he's written?

3 A I am not familiar with any. He wrote this one, and they  
4 said, knock it off, and he did. He erased it  
5 immediately.

6 EXAMINATION

7 BY MS. MOTLEY:

8 Q What about any other jokes that he said?

9 A Not that I'm aware of.

10 EXAMINATION

11 BY MR. SCHWAB:

12 Q Is David Bowen a high value targeted joke as well?

13 A I never listed him as one, so I don't know.

14 (Discussion had off record.)

15 BY MR. SCHWAB:

16 Q Chief, are you familiar with this full PowerPoint?

17 A I am not.

18 Q Is this the first time you're seeing the entire  
19 PowerPoint?

20 A I think it is.

21 Q Okay. Why didn't you demand to see it when you heard  
22 about the high value targets?

23 A I was told about what Lewandowski had put in there, they  
24 said he was writing this and putting a presentation  
25 together to present to the supervisors on the west side

1 of the building, which is captains and myself, and here  
2 is what happened with Lewandowski. I said, "okay, what  
3 else is going on there?" And they explained to me, as I  
4 just explained to you, that they deleted that. I said,  
5 okay. These other people in here, with the exception of  
6 Khalil Coleman, David Bowen, and Tiffany Henry, who I  
7 haven't met, but I know the name, I don't know any other  
8 names at all.

9 Q So is this entire PowerPoint a joke?

10 A I don't think so.

11 Q Is naming David Bowen a high value target a joke?

12 A I think it's informational.

13 Q Have you ever targeted David Bowen?

14 A Have I personally?

15 Q Yes.

16 A I don't think I targeted him.

17 Q Okay. What did you do?

18 A I sent a letter to the speaker of the house requesting  
19 that some disciplinary action be taken against Bowen.

20 Q Do you often do that against political opponents?

21 A Never.

22 Q Do you consider David Bowen to be a political opponent?

23 A No.

24 EXAMINATION

25 BY MS. MOTLEY:

1 Q And you did that on September 1st, correct?

2 A Whatever the date is that I sent the letter. I do not  
3 consider him to be a political opponent.

4 EXAMINATION

5 BY MR. SCHWAB:

6 Q Do you have political opponents?

7 A Probably.

8 EXAMINATION

9 BY MS. MOTLEY:

10 Q And you --

11 THE COURT REPORTER: Wait. "Whatever the date  
12 is I sent the letter. I do not consider him a political  
13 opponent."

14 BY MS. MOTLEY:

15 Q Let's go through this, and then we'll say, because I  
16 want to know which one of these is a joke and which one  
17 isn't. Is naming Khalil Coleman a higher value target  
18 on Page 4, Slotted 12, is that a joke?

19 A I don't think so.

20 Q Is naming -- Page 5, Slide 13, is naming David Bowen a  
21 high value target, is that a joke?

22 A I don't think so.

23 Q Page 5, Slide 14, is naming Tiffany Henry a high value  
24 target, is that a joke?

25 A I don't believe it is.

1 Q Slide 15, is naming Dennis McBride a high value target,  
2 is that a joke?

3 A I think that one is.

4 Q You think it is, but you don't know that?

5 A I was told it was, that is why it was deleted.

6 Q Did you talk to Detective Lewandowski yourself?

7 A I did.

8 Q Did he tell you about this entire PowerPoint slide  
9 presentation that he created?

10 A He did.

11 Q And what did he tell you?

12 A He told me that he was preparing the documents for us to  
13 view, and he said that he had put the mayor's name in  
14 there. He said it was wrong, I shouldn't have done it,  
15 but I deleted it as soon as I was told to do that, and  
16 he apologized for it.

17 Q So he deleted it, and then he sent the PowerPoint  
18 presentation slide out again?

19 A He deleted it once the supervisors told him to delete  
20 it. He deleted it immediately, and no other people in  
21 our department had seen the mayor's -- this thing that  
22 he did.

23 MS. BAYNARD: Just for the record, you picked  
24 up what is marked as Exhibit 7?

25 THE WITNESS: Yes.

1 BY MS. MOTLEY:

2 Q And when did he delete the slide?

3 A I don't know the date was that he wrote it, but as soon  
4 as he presented it to the supervisors, they said, knock  
5 it off and delete it, and he did.

6 Q Coincidentally, this slide was created, or this  
7 PowerPoint presentation was sent September 1st, are you  
8 aware of that?

9 A No.

10 Q September 1st is the also the same date that you sent  
11 the letter to the state legislature about David Bowen,  
12 isn't it?

13 A Okay.

14 Q Is that a coincidence?

15 A Probably.

16 Q Do you know, when did they tell him to delete the slide?

17 A Whenever he submitted it to the supervisors, they told  
18 him to.

19 Q Who told him to delete the slide?

20 A Lieutenant Wrucke and Sergeant Scornia (Phonetic).

21 Q And they received this by e-mail, correct?

22 A I don't know if they got it from e-mail, or if it was  
23 shared with them back in the detective bureau, probably  
24 an e-mail, and they talked to him right then and there.

25 Q Did they confirm that he deleted it immediately upon

1           their direction?

2       A     I would assume that he would have been done that because  
3           he would have followed their order.

4       Q     With regards to this slide involving Dennis McBride, it  
5           mentions that -- is there anything in this slide that  
6           you disagree with?

7       A     On McBride?

8       Q     Yes.

9       A     Yes.

10      Q     What do you disagree with?

11      A     First off, he puts him as an HVT, which I don't agree  
12           with. I don't believe the mayor sanctioned violence  
13           against Mensah. When it says he "continually provides  
14           outright lies and misleading information -- "

15                   THE COURT REPORTER: "He continually provides  
16           -- "

17                   MR. SCHWAB: Outright lies.

18                   THE COURT REPORTER: Thank you.

19                   THE WITNESS: I don't believe that is true.

20           And the last line, "no probable cause for involvement in  
21           the Mensah shooting," I think that is also  
22           inappropriate.

23           BY MS. MOTLEY:

24      Q     But him naming the mayor as privately meeting with  
25           Coleman, me, Vishny and Brian Anderson, you agree with



1	that?
---	-------

2 A I believe he's talked with Brian Anderson and I believe  
3 he has met with Khalil Coleman. As far as the  
4 attorneys, I am not sure.

5 Q Do you track the meetings that the mayor has with  
6 people?

7	A	Never.
---	---	--------

8	Q	Why not?
---	---	----------

9 | A It's not my business what the mayor does.

10 EXAMINATION

11 BY MR. SCHWAB:

12 Q So where did this discussion about him -- about the  
13 mayor meeting with these people come from?

14 A You would have to ask Lewandowski because he's the one  
15 that put it in there.

16 Q Does the Wauwatosa Police Department keep notes on who  
17 people associate with?

18	A	Not to my knowl edge.
----	---	-----------------------

19 Q Okay. So just to be clear, when you said delete, he  
20 doesn't have to delete this final slide, is that  
21 correct?

22 A That is what he was told to do, yes.

23 Q But the rest of the PowerPoint remained?

24 | A I think it did.

25	Q	Does high value or higher value target, is that found
----	---	---

1 anywhere within any of your policies or procedures?

2 A It is not.

3 Q What makes one a higher value target?

4 A That's not a term that I was familiar with until I saw  
5 this. Common sense would tell me that it seems like it  
6 is somebody, like a person of interest that we are  
7 interested in investigating more, but we've since, after  
8 this, we're using other terms other than HVT.

9 Q What terms do you now use?

10 A You know, I keep forgetting it, Vetter knows what the  
11 term is, it is something that the military uses, and I  
12 can't remember what it is.

13 EXAMINATION

14 BY MS. MOTLEY:

15 Q Do you think the mayor is chicken shit like Lewandowski?

16 A I would not use a term like that.

17 Q What did you do to consequence Lewandowski for calling  
18 the mayor chicken shit in October?

19 A I had a conversation with Lewandowski and told him that  
20 he would be disciplined.

21 EXAMINATION

22 BY MR. SCHWAB:

23 Q Was that a joke?

24 A What?

25 Q When he called the mayor chicken shit.

1 A I think much like the slide, using an inappropriate  
2 choice of words.

3 EXAMINATION

4 BY MS. MOTLEY:

5 Q Do you think that's appropriate for him to ask a person  
6 of interest in an interrogation if he agrees that the  
7 mayor is chicken shit?

8 A I do not think that is an appropriate.

9 Q How was he disciplined for that?

10 A I told him he would be issued a reprimand.

11 Q A written reprimand?

12 A Yes.

13 Q Was he?

14 A He was not.

15 Q Why not?

16 A I changed my mind.

17 Q Why?

18 A Because after I did the investigation, and I heard the  
19 reasoning and context that he talked about to me, the  
20 fact that -- I would look at it differently if  
21 Lewandowski had -- first off, I thought the whole  
22 department had seen this e-mail, and I was outraged when  
23 I thought the whole department got it. Then he said, no  
24 no, no, only the supervisors saw it in the bureau. I  
25 thought, great, all the detectives have seen it. No,

1 no, no, just Scornia and Wrucke saw it, and they told  
2 him to get rid of it. Wait a minute, you mean to tell  
3 me nobody else saw it? Just the supervisors, and they  
4 told him get rid of it, right, what's the harm there?  
5 As we said earlier, I was called an accomplice to  
6 murder.

7 Q But not by a Wauwatosa police officer, correct?

8 A I was, in public I was called an accomplice to murder.

9 Q There was a picture of you?

10 A Right.

11 Q With the word "accomplice"?

12 A All summer long I had to listen to me being called a  
13 murderer by protestors. I am just explaining how I am  
14 viewing this. But being a public official, people can  
15 say those things. You, yourself have not said  
16 complimentary things about me or our police department.  
17 That is fine, I get it. I don't respond. I don't  
18 respond to any of them because, you know what, as I said  
19 before, the pay is the same. I get paid the same the.  
20 People can say whatever they want. I know what is true  
21 and what isn't true. When I thought about that, really  
22 what's the harm? The only reason this became public is  
23 because Isaiah Holmes' open records request and it was  
24 part of what comes on the computer. That is the only  
25 reason it is out there.

1 Q What have I said that is not complimentary about you?

2 A You've allowed people to --

3 Q What have I said, to your statement, that wasn't  
4 complimentary about you?

5 A You said that I should be fired all along. For what  
6 reason, I don't know, because I didn't do anything  
7 wrong. You were mad because Mensah wasn't fired. I  
8 don't have the power to fire Mensah.

9 Q What have I said that wasn't complimentary about you?

10 A That I should be fired.

11 Q Anything else?

12 A That is what comes to mind.

13 EXAMINATION

14 BY MR. SCHWAB:

15 Q So you didn't reprimand him because it didn't come out?

16 A Because it doesn't rise to the level of reprimand, just  
17 like I'm a public official, so is the mayor.

18 Q Is it a case that you will only reprimand for conduct  
19 that becomes public?

20 A It is a case that I will reprimand if I think it's  
21 deserving of a reprimand. In this case, it wasn't.

22 Q So you thought it was?

23 A When I first heard it.

24 Q And you decided against that, correct? And what was the  
25 basis for deciding against it?

1 A Where's the harm.

2 Q It doesn't become public?

3 A Correct.

4 Q An officer's conduct, as long as other people don't  
5 learn about it, isn't harmful?

6 A This was not harmful, so it is not harmful.

7 Q Do you worry about the decision making of your officers?

8 A No.

9 Q Officers are called to make life and death decisions,  
10 right?

11 A Yes.

12 Q When they make decisions like this in private, does that  
13 call into question their abilities?

14 A No.

15 Q They're private conduct just generally doesn't call into  
16 conduct?

17 A This conduct doesn't cause me any concern.

18 Q What about calling the mayor chicken shit?

19 A I don't like it in the context that he did that, and in  
20 an interview or interrogation, I don't like that will.  
21 So we talked to him with that, but it doesn't cause me  
22 concern about their decision making.

23 EXAMINATION

24 BY MS. MOTLEY:

25 Q You don't like it, or do you think that's against policy

1 for him to do that within an interrogation?

2 A I don't like it. There's a lot of things that happen in  
3 interviews and interrogations that people would probably  
4 be upset if they saw what really happens. I can give  
5 you an example if you would like.

6 Q No, thank you. I am wondering if unprofessional conduct  
7 by a Wauwatosa police officer, is that something that an  
8 officer can be disciplined for?

9 A Unprofessional conduct, yes, they can be disciplined.

10 Q Isn't it unprofessional for Detective Lewandowski to  
11 have brought his personal feelings into a very serious  
12 interrogation of a person by calling the mayor chicken  
13 shit?

14 A It was a poor choice of words, and I wish it hadn't  
15 happened.

16 Q Do you think it is appropriate for him to have brought  
17 up the mayor at all in the interrogation of Briana  
18 Foster (Phonetic)?

19 A Probably not.

20 EXAMINATION

21 BY MR. SCHWAB:

22 Q Now we have two records at least of him speaking  
23 negatively about the mayor. How many times has he  
24 called the mayor chicken shit?

25 A I have no idea.

1 Q Has he complained about the mayor to you?

2 A No.

3 Q Has he complained about the mayor to anyone else in the  
4 office?

5 A Not to my knowledge.

6 Q Has he complained about -- never mind.

7 EXAMINATION

8 BY MS. MOTLEY:

9 Q With regards to an investigation and interrogations,  
10 Detective Lewandowski has been with the Wauwatosa Police  
11 Department for 20 years, correct?

12 A Close to 20.

13 Q And with regards to this joke, high value target, did he  
14 tell you it was a joke?

15 A Yes.

16 Q Okay. And you reprimanded him about bringing up the  
17 mayor in the video interrogation of Briana Foster by  
18 calling him chicken shit?

19 A Yes.

20 Q But that's not all he did in that interrogation,  
21 correct, with regards to the mayor, he also was very  
22 disparaging about the mayor to a person who was in  
23 custody that was being interrogated by him, isn't that  
24 correct?

25 A I don't remember -- (inaudible) -- that interrogation.



1 Q Was there any interrogation value to him bringing up the  
2 mayor at all in that interrogation of Briana Foster?

3 A I don't know what the context was that he was talking to  
4 her about it.

5 Q Well --

6 MS. BAYNARD: (Inaudible).

7 THE COURT REPORTER: What?

8 MS. BAYNARD: I just said it was a "he."

9 MS. MOTLEY: Thank you.

10 BY MS. MOTLEY:

11 Q But you don't remember it, you didn't see it all, but  
12 yet you reprimand him about that?

13 A Originally, I was only reprimanding when I heard about  
14 the poor choice of words that he used, and I said, you  
15 can't do that kind of stuff, and the thing with the  
16 mayor.

17 Q So you just basically told him, don't call the mayor  
18 chicken shit, but it's cool --

19 A (Inaudible).

20 THE COURT REPORTER: You were at the same  
21 time, "but it's cool to interrogate -- "

22 BY MS. MOTLEY:

23 Q It is okay for him to interrogate a suspect about the  
24 mayor as long as you don't call him chicken shit, was  
25 that the gist of the conversation?

1 A I did not say that.

2 Q What did you say?

3 A I said you need to keep your communications  
4 professional.

5 Q On October 16th, Joseph Lewandowski also questioned  
6 Niles McKee, correct?

7 A I don't know.

8 Q Well, in that interrogation he also had a whole section  
9 he was also talking about Mayor McBride, are you aware  
10 of that?

11 A I am not.

12 Q Are you aware that Niles McKee is one of the suspects  
13 who was alleged to have done something at Officer  
14 Mensah's house?

15 A I think I have heard the name.

16 MS. MOTLEY: Okay.

17 EXAMINATION

18 BY MR. SCHWAB:

19 Q Do you think it's appropriate during an interrogation  
20 for Lewandowski to say, Mayor McBride created this  
21 committee, which is a civilian oversight committee, in  
22 accordance with The People's Revolution's request, put  
23 two members of The People's Revolution in charge of it.  
24 I asked, if there are people that hate you, should they  
25 be in charge of you? Are you aware that he said that?

1 A No.

2 Q Do you believe that The People's Revolution hates cops?

3 A From what I have seen and some of the comments that have  
4 been made to our police officers, I think that would be  
5 a fair statement from some of them.

6 Q And people engaged in civilian oversight or perhaps the  
7 police and fire commission, should it only be composed  
8 of people who love cops?

9 A I hope it is composed of people who are impartial.

10 Q So people with legitimate criticisms -- with criticisms  
11 have a legitimate right to participate in public policy  
12 as it relates to policing?

13 A They do, as long as they're open-minded.

14 Q Do you think it is a problem when your police officers  
15 express closed-mindedness to them?

16 A When police officers, or anybody expresses their  
17 opinions in such a way that Lewandowski did, that's  
18 where it's my job to correct that behavior.

19 Q But you didn't correct that behavior?

20 A I think we corrected the behavior.

21 Q But you did not reprimand him, right?

22 A I did not. I talked to him and told him to use more  
23 professional language, I think that takes care of that  
24 problem.

25 Q Is Lewandowski professional?

1 A He is.

2 Q Based on this?

3 A Based on his overall record, yes.

4 Q Just multiple lapses?

5 A A couple, a couple lapses in 20 years --

6 MS. MOTLEY: Very recent, in a short period of  
7 time, lapses.

8 MS. BAYNARD: Objection to the question, or  
9 the form of the question. Go ahead and answer.

10 MS. MOTLEY: It was more of a comment.

11 MS. BAYNARD: (Inaudible).

12 BY MR. SCHWAB:

13 Q Are you aware that certain people received curfew  
14 violation tickets in the mail?

15 A Yes.

16 Q How did you guys find their names?

17 A I've got a group of investigators and police officers,  
18 they're experts that do that, not me. I don't do that.

19 Q Were you taking pictures, or was the Wauwatosa police  
20 take pictures of protestors to later ID?

21 A I think so.

22 Q Do you still have those records?

23 A Probably.

24 Q Okay.

25 EXAMINATION

1 BY MS. MOTLEY:

2 Q Do you think Mayor McBride is an effective mayor?

3 MS. BAYNARD: Objection, relevance. Go ahead.

4 THE WITNESS: That's not for me to judge.

5 BY MS. MOTLEY:

6 Q I'm asking you to judge?

7 A Is he an effective mayor, I don't have an opinion.

8 Q Do you think that Mayor McBride is an effective  
9 supervisor of you seeing as he has zero law enforcement  
10 experience?

11 A I have known the mayor for many years. He's always been  
12 very cordial to me. When I started he was the head of  
13 the civil service commission, so I have known him for  
14 many years. After that, he was an alderperson. I knew  
15 him when he was an alderperson. I have always had a  
16 good relationship with him, and he has always treated me  
17 very well.

18 Q Do you think he's an effective boss to have even though  
19 he has zero law enforcement experience?

20 A Sometimes a person who has zero law enforcement  
21 experience make the best bosses.

22 Q Why didn't the mayor show up for the deposition before?  
23 Did he talk to you about that?

24 A No.

25 Q Do you know he did not show for our deposition?

1 A I heard that he didn't.

2 Q Okay. Do you recall your discussion with the mayor  
3 after the PowerPoint, after he became aware of the  
4 PowerPoint slide?

5 A Yes.

6 Q What did he say?

7 A He was hoping that Officer Lewandowski would be  
8 disciplined because he felt that it rose to the level of  
9 a disciplinary situation.

10 Q Did anyone within the fire and police commission talk to  
11 you about this slide as well?

12 A Yes.

13 Q Dominic Leone, was he the one?

14 A No, I answered questions from the entire police  
15 commission.

16 Q Okay. Did Mayor McBride communicate to you what kind of  
17 discipline he wanted Detective Lewandowski to have?

18 A He was hoping that he would get some sort of suspension  
19 out of it.

20 Q Did that happen?

21 A It did not happen, I told him it will wasn't going to  
22 happen.

23 Q How did the mayor respond to that?

24 A I don't think the mayor was real happy about it.

25 Q Describe not being happy about it, what did he say?

1 A He said, I disagree. Okay. That's where we left it,  
2 and I didn't hear anything more about it from him.

3 Q Did he call you and communicate that to you?

4 A No, did not.

5 Q He e-mailed you?

6 A No, that was at our in-person meeting.

7 Q Who else was in that in-person meeting?

8 A Myself, Captain Schultz, who has since retired, and Jim  
9 Archambo.

10 Q Was Alan Kesner also in that meeting?

11 A He was not.

12 Q Just out of curiosity, since August of last year until  
13 now, how many officers with the Wauwatosa Police  
14 Department have left?

15 A Since August?

16 Q Yes, and can you name them, please?

17 A Steve Sment, Jeff Griffin --

18 Q Steve Sment?

19 A S-M-E-N-T, Jeffery Griffin, we are talking since August  
20 --

21 Q Since August of 2020.

22 A Mike Schultz, I just had an officer who left us when he  
23 was on probation because he wasn't doing the job very  
24 well, Joshua Dale.

25 Q D-I-E-H-L?

1 A D-A-L-E, and Jeff Freena just left, Jennifer Freena  
2 left.

3 Q That's his wife, correct?

4 A Right, I think those seven, and there is maybe one other  
5 one, I can't think anybody else.

6 Q I have six, Steve Sment, Jeffrey Griffin, Mike Schultz,  
7 Joshua Dale, Jeffery Freena, Jennifer Freena, Brian  
8 Zalewski (Phonetic)?

9 A Brian Zalewski.

10 Q Champsey (Phonetic)?

11 A Champsey, he is in the military and decided to stay  
12 there.

13 Q What branch is he in, out of curiosity?

14 A I think he's Army.

15 Q And then, of course, Joseph Mensah, but that was --

16 A Mensah, and then me until a couple weeks.

17 Q That's ten officers?

18 A Counting me, yes.

19 Q Counting you, from August 2020 until now?

20 A Yes.

21 Q And there are 90 police officers within the Wauwatosa  
22 Police Department?

23 A Yes.

24 Q So that's a little over ten percent of the police force  
25 has left since August 2020?



1 A Yes.

2 Q Is that a normal turnover rate?

3 A It is not, we don't have a turnover rate normally.

4 We're at 90 now, we were close to 100, we were at, like,  
5 96, we hired a couple and a couple left, so we are at 90  
6 right now. We should be at 102 right now.

7 Q Why did Steve Sment leave?

8 A He was a detective, and I think like a lot of police  
9 officers, they are saying that the first time they're  
10 eligible to go, they're out of here, they don't want  
11 anything to do anymore --

12 Q So he retired?

13 A He retired.

14 Q What about Jeffrey Griffin?

15 A Retired.

16 Q Michael Schultz?

17 A Retired.

18 Q Joshua Dale?

19 A He left on his own before I made the decision for him.

20 Q Jeffery Freena?

21 A Retired.

22 Q Jennifer Freena?

23 A Retired.

24 Q Brian Zalewski?

25 A Left to go to Butler Police Department.

1 Q Did Brian Zalewski apply for the chief job?

2 A I don't believe he did.

3 Q And Champsey went to the Army?

4 A He was in the Army deployed, and he just decided to stay  
5 there, he was in military intelligence or whatever.

6 Q Thank you. Was Heather Cole ever surveyed, monitored,  
7 or investigated by the Wauwatosa Police Department?

8 A Heather Cole, she was not.

9 Q She was never surveyed?

10 MS. BAYNARD: Surveilled.

11 BY MS. MOTLEY:

12 A Surveilled, I don't know why I keep saying that,  
13 surveilled.

14 A No.

15 Q What about Representative Robin -- (inaudible)?

16 A No.

17 Q Any members of the Jay Anderson, Jr. family?

18 A No.

19 Q What about Brian Anderson?

20 A No.

21 Q Cleo Coleman?

22 A I don't think so.

23 Q Was there any -- I'm jumping around a little bit, sorry.

24 With regards to Taleavia Cole's phone that was in the  
25 nerd lab and kept by WPD for over 20 days, do you know

1 if there were any attempts to analyze it?

2 A I don't know.

3 Q Do you recall the Whites for Wauwatosa letter that  
4 circulated during summer?

5 A I am sorry, the letter?

6 Q The Whites for Wauwatosa letter that was circulating  
7 this past summer.

8 A I think I heard something about that.

9 Q Was there any investigation with regards to that?

10 A No.

11 Q Why not?

12 A I heard from somebody that they said it was just a  
13 one-time distribution, and I don't know if they thought  
14 it was a valid thing or not. They didn't feel that any  
15 more needed to be done with it, so we didn't.

16 Q With regards to -- (inaudible) -- what looked like a  
17 bullet hole in Mayor McBride's window, was that  
18 investigated?

19 A We did. He made a police report on that, so we looked  
20 at that, and then the mayor said, "well, this could have  
21 happened months and months ago." So I was like, "well,  
22 okay, there's not much we can do."

23 Q But there is a police report on that?

24 A There is.

25 Q Was anyone accused of shooting into his house?

1 A No.

2 Q Okay. What do you think about Isaiah Holmes?

3 A I know the name, don't know anything about him, wouldn't  
4 recognize him if I saw him.

5 Q What do you think about his stories?

6 A I think Isaiah Holmes is always trying to accuse us of  
7 doing something. What I understand is that when he was  
8 in high school even, he is a younger guy, I guess, I  
9 don't know, he was always making some allegation about  
10 the police department. He's the one that requested the  
11 open records for McBride, the HVT thing, so I don't know  
12 anything about him. I never talked to him. I wouldn't  
13 recognize him. I don't know.

14 Q Why does Wauwatosa keep fake records, arrest records and  
15 booking records of people in the community?

16 A Yeah, I know that is an issue you asked about. I have  
17 asked -- (inaudible) -- about it, Lieutenant Roy, and  
18 Captain Vetter, explain this to me, I don't quite  
19 understand it. They've explained it to me, and I still  
20 don't quite understand it. It has something to do with  
21 the software program, from the Phoenix -- our records  
22 management system. Somebody more qualified than me  
23 needs to explain it, I just don't know.

24 Q Do you think it's appropriate for Wauwatosa to keep fake  
25 records of people being arrested and booked, and that

1 not happening, and then giving that to the media, do you  
2 think that is appropriate to do?

3 A Well, I think that the record is generated with the  
4 contact or whatever, however they're record is  
5 generated. How it's listed and all of that, I don't  
6 know. Again, somebody else is going to have to explain  
7 it. I think we had contact with those people.

8 Q Do you think it was appropriate for people to have  
9 pictures of you with the word "accomplice" on it?

10 A I do not think that was appropriate.

11 Q Do you think it's appropriate for the Wauwatosa Police  
12 Department to have records of people being arrested that  
13 did not happen also?

14 A I think there was a way that that could have been  
15 explained, Vetter and those other people that I talked  
16 about, they can explain it better. So I don't want to  
17 speculate how that is listed. I just don't understand  
18 it.

19 Q Do you think it's okay to have fake records on people?

20 A I don't think we have fake records. The records exist,  
21 but how they are listed, I'm not sure.

22 Q If people are listed as being arrested, they give them  
23 an arrest number and booked, given a booking number,  
24 that sort of lends itself to demonstrate that they've  
25 actually been arrested and booked, wouldn't you agree

1           with that?

2                       MS. BAYNARD:  Objection to the form of the  
3           questi on.  Go ahead.

4                       THE WITNESS:  It would seem so, but I am not  
5           sure if those people that you're referencing have  
6           actually been arrested or had the contact or issued a  
7           ci tati on.

8           BY MS. MOTLEY:

9       Q    No, not everyone?

10      A    I don't know the speci fics.

11      Q    So I don't understand, why is it that you can sympathize  
12           when it's you put in that situation, but you can't when  
13           it is other people put in that situation and released to  
14           the medi a, why is there a di fference?

15      A    There's not a di fference, I can sympathize and I can  
16           empathi ze.

17      Q    But you can also have the power to do something about  
18           it.

19                       MS. BAYNARD:  Objection to the form of the  
20           questi on.  Go ahead.

21           BY MS. MOTLEY:

22      Q    You also have the power to do something about it, not  
23           just sympathi zing and empathi zi ng, you have the power to  
24           make sure that people's fabricated arrests don't make --  
25           paper, correct?

1 A I believe that was explained by our department. It was  
2 even explained at the equity inclusion committee, about  
3 how those arrests are listed or how they are  
4 categorized. So if I sat down with somebody and they  
5 wanted to ask me -- somebody from our department,  
6 explain this, somebody else come in here and explain it  
7 to the attorneys so we can all understand together, I  
8 think that could be done.

9 Q Don't you think it's a problem that you as a chief  
10 policy maker didn't understand that explanation and yet  
11 it still continues?

12 A You know, yeah, there's a lot of things I don't  
13 understand.

14 Q Meanwhile --

15 A But other people do understand it, and they have said,  
16 this is fine, what we're doing, it's the right thing.  
17 My brain, maybe I learn differently. I don't quite  
18 understand that, but I am sure that it is done  
19 appropriately.

20 Q Why are you sure that it's done appropriately?

21 A (Inaudible).

22 Q Was this PowerPoint slide done appropriately?

23 A You know what --

24 MS. BAYNARD: Objection to the form of the  
25 question, compound.

1 BY MS. MOTLEY:

2 Q Why do you assume it was done appropriately?

3 A I don't assume a lot of things, are you talking about  
4 the PowerPoint?

5 Q No, you assume in terms of the arrest and booking  
6 records, why do you assume that that was done  
7 appropriately?

8 A Because it was explained to me by Captain Vetter how we  
9 do that, and I then asked Sergeant Wechsler (Phonetic)  
10 to explain it another time. He explained it to me.  
11 Lieutenant Roy understands it. I think their  
12 explanations are consistent. It is just, okay, I'm just  
13 -- I don't quite understand how we do that. I've got to  
14 tell you, too, I'm at the point where I've got more  
15 important things going on right now. If this is what is  
16 going on, we have other things to do.

17 Q Do you think a person can protest for police reform and  
18 also be pro-police?

19 A Yes.

20 Q So you don't take that everyone that is protesting with,  
21 for instance, The People's Revolution as being, quote,  
22 anti police?

23 A No.

24 Q Do you think Taleavia Cole is anti police?

25 A I am not sure what Taleavia Cole is. I have met her



1           that one time when you were at the station with us, it  
2           was the one and only time I met her. I think she's  
3           yelled at me before, but I don't know much about her. I  
4           realize it's got to be really difficult for her because  
5           she had a family member that was -- is deceased. I  
6           don't know what her -- what she thinks.

7       Q     Do you know I'm anti police?

8       A     I think you make your money by appearing to be  
9           disruptive and trying to stir the pot, that would be my  
10          opinion, but whether or not you're anti police or not, I  
11          would not say that you are.

12                   MS. MOTLEY: Okay.

13                               EXAMINATION

14   BY MR. SCHWAB:

15       Q     During the protests, do you know if any medics were  
16           targeted with force?

17       A     Medics?

18       Q     Did any police officers shoot at medics?

19       A     Are you talking about paramedics?

20       Q     Anyone, someone out on the street trying to render first  
21           aid.

22       A     Like what happened in Kenosha, is that --

23       Q     Or, across this country.

24       A     I have heard those stories. I don't know if they  
25           happened in our city.

1 Q Do you know if any of your police officers targeted  
2 journalists?

3 A No, I don't know.

4 Q Have you heard any complaints about targeting  
5 journalists?

6 A Nothing that has been -- you know, I have heard rumors  
7 about things, but nothing that was brought to my  
8 attention.

9 Q How do you hear a rumor that is not brought to your  
10 attention?

11 A People will talk, I will hear the officers talking in  
12 the hallways and the squad rooms, but nothing was  
13 brought to my attention by any complainant.

14 Q If one of your officers was to, for example, use pepper  
15 spray on someone while recording them, what would the  
16 consequences of that be?

17 A Just recording them?

18 Q Yes.

19 A That would be an improper use of that.

20 Q Would that be excessive force?

21 A If that is the only reason, that would be improper and  
22 excessive use, yes.

23 Q Would you fire that officer?

24 A I would want to know the totality of the circumstances,  
25 as to what led up to that and what the interaction was

1 before I decide what to do.

2 Q If you were to learn that any officer shot at protesters  
3 because they didn't like the content of the message,  
4 would that be a fireable offense?

5 A Like I just answered, that would also be improper until  
6 we find out exactly what is going on.

7 Q Are you certain that none of that happened?

8 A You know, when you say am I certain, I like to say  
9 certain beyond a reasonable doubt, I don't know. I  
10 would like to think that those things didn't happen. I  
11 don't know with any certainty.

12 Q I assume you take seriously the use of state force?

13 A What force?

14 Q The force granted by the state?

15 A Yes.

16 Q Police officers use state violence, is that correct?

17 A We use -- we abide by the state laws, and there is a use  
18 of force --

19 Q They use violence at times as sanctioned by the state,  
20 is that correct?

21 A Police officers?

22 Q Yes.

23 A Yes.

24 Q Is that a responsibility?

25 A Very much so.

1 Q Does that require them to be above reproach?

2 A Yes.

3 Q It requires better than jokes?

4 A Sorry?

5 Q It requires better than targeting political leaders?

6 A I am not understanding what you mean.

7 Q Never mind. During the protests when people are  
8 arrested, why were they interrogated?

9 A Were they interviewed, or interrogated?

10 Q What's the difference for you?

11 A If I take you into custody or something, I might just  
12 want to interview, where are you from, what are you  
13 doing, what's going on? That is an interview. If I am  
14 saying you have the right to remain silent because I'm  
15 arresting you for a specific offense and I am going to  
16 question you about something that you did, that's an  
17 interrogation.

18 Q So can a police officer do an interview where they ask  
19 about that individual's conduct?

20 A If they don't know what the individual did at that  
21 point, it seems like as soon as, if I'm interviewing  
22 you, all of a sudden you make a statement that leads me  
23 to believe you might be involved in some criminal  
24 activity, that interview changes into interrogation. At  
25 that point, I would probably advise you of your rights.

1 Q Let's say you arrest me at midnight and take me to the  
2 station in handcuffs, put me in a room, and walk into  
3 the room, is that still possibility an interview?

4 A Possibly.

5 Q Okay. Are you aware that every protester was either  
6 interviewed or interrogated, every arrested protester?

7 A I am not aware of it specifically, but I would not be  
8 surprised.

9 Q Do you know if they were interviewed or interrogated?

10 A I don't know.

11 Q Do you know if any of them were interrogated?

12 A I don't.

13 EXAMINATION

14 BY MS. KNOWLTON:

15 Q Do you know if they were explicitly told what their  
16 rights were?

17 A I don't know if they were, but if you're not being  
18 interrogated, you don't need to be advised of your  
19 rights either.

20 Q If you're taken into detention and if you can't leave,  
21 so you are physically detained, is that an arrest?

22 A Yes.

23 Q Are you required to be given your rights when you're  
24 arrested?

25 A Not necessarily.

1 Q Why not?

2 A If I saw you doing something, say, I saw you throwing a  
3 rock at somebody, I can arrest you. I don't have to ask  
4 you, what did you do, or why did you do that, I have  
5 already seen you doing it. So I write in my report,  
6 this is what I saw you doing. I don't need to advise  
7 you of your rights because I'm not going to ask you that  
8 question. I saw it. If somebody told me that you did  
9 it and I was questioning you about it, and I thought  
10 that maybe, yes -- first off, I think I would go a  
11 little bit more smooth, and say, "do you know anything  
12 about where the rock that was being thrown?" And you  
13 said, "yes, I'm aware of it." Well, you are probably  
14 the one, it was your description and so on, I might not  
15 give you your rights.

16 EXAMINATION

17 BY MS. MOTLEY:

18 Q Whose idea was it to put that Blue Lives Matter flag in  
19 the police station in Wauwatosa?

20 A Where was it located?

21 Q It was located behind the front desk above the desk.

22 A Yeah, I don't know whose idea it was, but somebody gave  
23 that to us, and I authorized it to be put up there.

24 Q Why did you authorize that to be up there?

25 A Because I loved it.

1 EXAMINATION

2 BY MR. SCHWAB:

3 Q Let me ask you a question: If I gave you a Black Lives  
4 Matter flag, would you also fly that in police station?

5 A If I'm allowed to put up a Blue Lives Matter flag, then  
6 I would.

7 EXAMINATION

8 BY MS. MOTLEY:

9 Q Why isn't it still up there?

10 A Because the mayor didn't like it and said he wanted it  
11 taken down, that's the only reason.

12 Q How many interview rooms do you have at the police  
13 station?

14 A For police interviews for the detectives, there's  
15 usually one or two rooms that we use.

16 Q Okay. And those rooms are equipped with video  
17 recording, correct?

18 A I believe so.

19 Q Those are the rooms that Detective Lewandowski was  
20 questioning Briana Foster in?

21 A I wasn't there, I was at the other place, so --

22 Q Presumably, interviews are conducted in those rooms, you  
23 said two or three rooms -- you said two rooms?

24 A Two, if you count the sensitivity room that would be  
25 used if you have a victim of a sexual assault or a

1 child, then it would be three.

2 Q And they all have video recording?

3 A I don't know if the sensitivity room has it.

4 Q Okay. Those that were arrested by Wauwatosa or any  
5 existing agencies, were there files also created by  
6 federal agencies as well?

7 A I wouldn't know that.

8 Q Okay. When would be appropriate for the FBI to do  
9 interviews at Wauwatosa Police Department?

10 A When?

11 Q Yes, under what circumstances?

12 A If I knew the answer to that, when the FBI will get  
13 involved and when they won't, that would make things  
14 easier for a multitude of reasons. The FBI is usually  
15 always doing federal things. If they are even  
16 prosecuting a crime, it has got to be done by the U.S.  
17 attorney. Many times over the years I have asked the  
18 FBI to do certain things, you know, and they say that is  
19 not in our jurisdiction or whatever. I'm not sure I  
20 know the answer of when it's feasible for them to get  
21 involved.

22 Q Certainly, if you're lending the space at the Wauwatosa  
23 Police Department which you are in charge of --

24 A Yes.

25 Q -- then you would have an explanation from the FBI as to



1           why they would need to use your interview rooms to  
2           question people, right?

3       A     They would probably ask whoever the supervisor is on  
4           duty, and say, hey, we've got to question somebody. Can  
5           we use the interview room? Absolutely, go ahead.

6       Q     Why did the FBI -- what did the FBI tell your officers  
7           as to why they needed to use the interview room?

8       A     I don't know because they would not have told -- the  
9           supervisors wouldn't have had told me the FBI came in to  
10          use the interview rooms, so that is not something that  
11          I'm normally told.

12      Q     Even in the debriefing for the biggest operation of your  
13          career, they would not --

14                               (A recess was taken.)

15   BY MS. MOTLEY:

16      Q     I have a question: What did you and Jasmyne discuss  
17          over lunch?

18      A     I think I said something to Jasmyne like, I was going to  
19          eat what you were eating because it would be more  
20          healthy. She orders a burger that has cheese and bacon  
21          on it too, so I didn't want to eat something healthy.  
22          Detective -- (inaudible) -- was with us too, so we had a  
23          relaxing hour.

24      Q     Okay. Throughout this deposition has she coached you to  
25          say anything?

1 A No.

2 Q Has she advised you on anything you should say?

3 A Not really, but usually I ask her, "is there anything  
4 that I said that made my attorney cringe," and she says,  
5 "no."

6 EXAMINATION

7 BY MR. SCHWAB:

8 Q How did you prepare for today?

9 A I met with Jasmyne yesterday, and she kind of said it  
10 probably was going to happen, and what you're going to  
11 be asking me questions about, there's nothing that she  
12 really surprised me with. I didn't bring any reports  
13 because I thought if there's a question you have for me,  
14 you'll give it to me, what you want me to do. I have  
15 always felt, I have done these many times, you just tell  
16 the truth the way you know it.

17 I don't like it when -- when Ms. Motley says,  
18 "you don't seem to know too much." Yeah, I feel  
19 embarrassed by that. As a chief, I don't do those kinds  
20 of things. We have a rather large agency, and I  
21 don't -- I don't take notes on every little thing that  
22 gets -- gets done. You know, and I delegate a lot of  
23 things because that is what we do, that is how we get  
24 our work done. Other than that, it is what it is.

25 Q What documents did you review yesterday?

1 A I didn't review any documents. I brought -- I had a  
2 notepad, and I just wrote a couple sentences down, and I  
3 wanted to know -- I checked my calendar to find out, I  
4 knew that the mayor's order -- or, the district  
5 attorney's order was October 7th, his decision. The  
6 only thing I really wanted to check is, when was the day  
7 I met with the district attorney. That was  
8 September 28th, so I wrote that down. That is really  
9 all I wrote.

10 Q Why did you keep the curfew order a secret for seven  
11 days?

12 A I don't -- you know, I don't believe in, you know,  
13 putting my business out there. It is not up to me to  
14 release the mayor's order. If the mayor wants to  
15 release it and says what he's going to do, that's up to  
16 him. That is not -- not for me.

17 Q Did the mayor tell you to keep this secret?

18 A He did not.

19 Q And do you view this as a public safety order?

20 A Curfew order, uh-huh, I believe so.

21 EXAMINATION

22 BY MS. MOTLEY:

23 Q Did Alan Kesner tell you to keep it a secret?

24 A No.

25 Q Did Mr. Archambo tell you to keep it a secret?

1 A No.

2 EXAMINATION

3 BY MR. SCHWAB:

4 Q Did you tell anyone else to keep it a secret?

5 A No, I think that we've all done this business many  
6 years, where we know we just don't talk about our  
7 business.

8 Q And the whole point of this was to keep people safe,  
9 right?

10 A Yes.

11 Q What would have been the worry about letting people know  
12 that they weren't allowed on the streets?

13 A I think when you put your plan out there of what you're  
14 going to do, I think then there's more of an opportunity  
15 for bad things to happen because, you know, let's just  
16 say for Kenosha, all the things that happened in  
17 Kenosha. I don't know how many outside people came into  
18 that city that were causing problems. I worry about  
19 that same thing in our own city. Really, Wauwatosa  
20 residents themselves do not cause us problems.

21 Q Who does cause those problems?

22 A I worry about people that come from other jurisdictions  
23 that don't have an investment in our city that try and  
24 control what we're going to do.

25 Q Where did Alvin Cole live?

1 A City of Milwaukee, I believe.

2 Q Does he have -- did he have no claim on what you do here  
3 in this city?

4 A What we do in what context.

5 Q Did Alvin Cole bear any consequences of how this police  
6 department is run?

7 A Alvin Cole acted in a way that, the problems that he had  
8 that ultimately caused his demise, those were the  
9 decisions that he made.

10 Q Okay. Did a Wauwatosa officer kill him?

11 A Yes.

12 Q So when you say that people from out of the city have no  
13 interest in what happens by the police department in the  
14 city, isn't that the incorrect?

15 A No, because I prefaced it, and I said Alvin Cole caused  
16 -- his behavior caused the problem that happened.

17 Q What if it turns out that he didn't cause it, I'm not  
18 saying you're in agreement with that, but if it turns  
19 out that Alvin Cole was murdered -- (inaudible) -- if it  
20 was excessive force, if it was determined that, then  
21 didn't he have an interest as Milwaukee resident who  
22 comes into Wauwatosa on how Wauwatosa police --  
23 (inaudible) -- black people?

24 A If that was the case, then he would have an interest,  
25 yes.

1 Q Are you familiar with this complaint, have you read the  
2 complaint?

3 A Which complaint?

4 Q In this case.

5 A In the lawsuit you're talking about, the civil case?

6 Q This current lawsuit, this current lawsuit, Knowlton v.  
7 City of Wauwatosa, have you read this complaint?

8 A Yeah, I did.

9 Q And you went through every single allegation and stated  
10 if you knew if it was true or false?

11 A I don't remember. I looked at that and gave it to the  
12 city attorney.

13 Q Are you familiar with data that shows that somewhere in  
14 the range of 60 to 80 percent of all traffic stops in  
15 the City of Wauwatosa are black people?

16 A I'm aware of different data that is out there.

17 Q What is the data you're aware of?

18 A Different people interpret things in different ways, and  
19 the traffic stops that we have, you know, we don't  
20 decide whether we're going to stop a white person or a  
21 black person. If you see a car, let's say a red car  
22 goes by at a high rate of speed, you don't know if the  
23 driver is black or white or Asian. We see whatever  
24 happened happen, we stop them, and it turns out to be a  
25 person of color, that's the way it is. It's the same

1 way we investigate any incidents that we get called upon  
2 too. When we show up at a scene, we have no idea if the  
3 person that we're looking for is black or white, but  
4 people give us information. And they'll say, "well,  
5 here is what I saw, I saw a white man wearing blue jeans  
6 and a T-shirt running from a scene," okay, then we're  
7 looking for a white man with blue jeans and a T-shirt.  
8 It turns out it is a black man with blue jeans and a  
9 T-shirt, that is what we look for.

10 Q Do the police ever exercise discretion in which cars  
11 they pull over?

12 A Sure.

13 Q Is it possible that one or multiple officers might use  
14 that discretion in a discriminatory manner?

15 A It is possible.

16 Q Does this data concern you? Have you investigated why  
17 this data -- perhaps, perhaps that result would come out  
18 and validate that you guys aren't discriminatory, but  
19 perhaps it would, and given this data, have you ever  
20 investigated whether there is a discriminatory basis?

21 A We have in the past. There was a report that Mr. Gunta  
22 was aware of looked -- he looked into this some years  
23 ago, we can't find what happened with that report, and  
24 it showed that we were not discriminating when we made  
25 our traffic stops.

1 EXAMINATION

2 BY MS. MOTLEY:

3 Q So you take that report, and you think that report is a  
4 valid report?

5 A I look at the individual things that happened. You  
6 know, right now I have got issues with people saying,  
7 well, we arrest, like, a desparent (Phonetic) number of  
8 people of color, okay, so what do we do with that? Do  
9 we say, okay, let's not arrest people of color. Let's  
10 just stop doing that because the statistics are bad.

11 We had an incident when the weather was still  
12 cold where ten black juveniles tried to rob a guy that  
13 was snow blowing his driveway. We caught them all, and  
14 we even got a gun out of it. My first thought was, oh,  
15 great ten more black kids that are going to go on our  
16 statistics that shows we're just picking on another  
17 race. What's the alternative? Let them go. Those are  
18 the things you have to look at too.

19 Q Have you ever investigated personally whether there is  
20 any discriminatory behavior displayed by your officers?

21 A I probably have.

22 Q And you mentioned a report, do you know roughly when  
23 that report was produced?

24 A I don't.

25 Q When you saw these numbers, did you worry that they were



1 correct?

2 A I don't worry that they're correct, I worry that people  
3 are always trying to say, oh yeah, Wauwatosa is racist  
4 because we get the spillover from around the  
5 metropolitan area, and we probably arrest more people  
6 that are non-Wauwatosa residents than we arrest our own  
7 residents.

8 EXAMINATION

9 BY MR. SCHWAB:

10 Q So it is important that people from outside the  
11 community do have a say in how Wauwatosa polices.

12 A If they are being mistreated, then I think it is  
13 important.

14 EXAMINATION

15 BY MS. MOTLEY:

16 Q Are you racist?

17 A Am I, I don't believe I am.

18 Q Has anyone ever accused you of that?

19 A Not to my knowledge.

20 Q Are you aware that in 2017 over 80 percent of the  
21 arrests in Wauwatosa were of black people?

22 A Probably.

23 Q Do you realize that the Wauwatosa community has less  
24 than five percent of a black population?

25 A But, the problem is that during our workday, the culture

1 in our community changes because many people go off to  
2 work, but we also have a lot of people come into our  
3 city that do business or trade, or they have jobs here  
4 too. So you can't just look at the number of residents,  
5 because you say, okay, well, Wauwatosa is what, five  
6 percent black, but we're arresting more. What happens  
7 during the daytime or in those late evening hours if we  
8 are arresting people, again, we look at what the  
9 incident is, not the numbers.

10 Q Do black people have a higher propensity to commit  
11 crimes than white people in Wauwatosa?

12 A I think their actions are determined by their  
13 activities. I don't think that blacks are more -- have  
14 more propensity to commit crimes. I think the people  
15 that we come in contact with do. But you know the thing  
16 that always worries me is, for instance, people that  
17 live in a disadvantaged neighborhood, my son lives in  
18 the inner City of Milwaukee, some of the people that  
19 live in those until inner city limits are just as afraid  
20 of crime as people who live out in the white suburb.  
21 And while they would like to relocate or they want to be  
22 safe, they're afraid of gangs or violence or whatever,  
23 so you can't just say people that live in inner cities  
24 are more prone to criminal activity. I think that is  
25 dangerous to do that. So we look at activities that we

1           see, and we make our decision based on the way we  
2           observe what is going on.

3       Q     Do you think that racial profiling is a problem within  
4           the Wauwatosa Police Department?

5       A     I do not.

6       Q     Why do you have a racial profiling policy if it's not a  
7           problem?

8       A     I think it's a statewide mandate that we have a racial  
9           profiling policy.

10      Q     Do you know what law or legislature says that racial  
11           profiling is a statewide mandate?

12      A     Offhand I don't know what it is.

13      Q     Do you think sexual harassment is an issue within the  
14           Wauwatosa Police Department?

15      A     I don't.

16      Q     But yet, you don't have a sexual harassment policy with  
17           Wauwatosa police officers?

18      A     Yes, we do.

19      Q     Within the department?

20      A     Yes.

21      Q     But not with the community, correct?

22      A     We have a policy in our department that we don't  
23           discriminate against people, and it has to do with the  
24           sexual harassment of employees and others. Yes, we do  
25           have a policy, and, no, I don't believe it's a problem

in our organization.

## EXAMINATION

BY MR. SCHWAB:

Q How many members of the Wauwatosa Police Department are members of the Ku Klux Klan?

A I would have no idea.

Q You don't know?

A	No.
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## EXAMINATION

BY MS. MOTLEY:

Q Or white supremacist groups?

A No idea.

## EXAMINATION

BY MR. SCHWAB:

Q Has the Wauwatosa Police Department ever had any association with the KKK?

A Not to my knowledge.

Q Are you familiar with Martin Luther King parties?

A Yes.

Q Tell me about those.

A They happened in 1989 before I was even chief. I started in 1990. I think it was March 29th of 1990 that they first became public. The only reason I remember that is because that was the day I was interviewed for the chief job. I was here from Iowa. I was at the

1 local hotel getting ready to go to city hall for  
2 interview. I remember sitting in front of the mirror  
3 putting my tie on, and I heard the news on the TV. They  
4 said, "riot from Wauwatosa City Hall, the mayor is about  
5 to make a statement regarding this drama and scandal in  
6 the Wauwatosa Police Department."

7 Well, I hadn't even been -- (inaudible) -- so  
8 I went up to city hall, and they said, "here is what is  
9 going on right now." So I was offered the job, and I  
10 came here in May of 1990. I came here just as they were  
11 starting to have hearings about what the officers had  
12 done, you know, prior to me even getting there and what  
13 was going to be done about that, those were police and  
14 fire commission hearings. The first year I was here I  
15 spent a good portion of every day working on that  
16 particular incident.

17 Q Were there KKK materials at these parties?

18 A I don't think so.

19 Q Whose houses were these parties at?

20 A I thought the -- (inaudible) -- had hosted one of the  
21 parties. I don't know if -- I thought there were two  
22 parties total. I don't know if they were both in '88  
23 and '89, or maybe spring and fall. I thought he had  
24 hosted the parties.

25 Q Who are we talking about?

1 A John Bosesavi ch (Phonetic).

2 Q Okay. When did you terminate his employment?

3 A I did not terminate his employment, he retired.

4 Q When did he retire?

5 A Let's see, I think he retired about 15 years ago.

6 Q So he worked for 15 years after it came out that he was  
7 hosting these parties?

8 A Probably longer than that.

9 Q Did you ever promote him?

10 A I did.

11 Q Was he a member of the KKK?

12 A I don't think so.

13 Q Did you ever ask him?

14 A I did not.

15 Q Were you aware that there were allegations that there  
16 was KKK materials at these parties?

17 A No.

18 Q Did you ever read the Franklin M. Kimmel (Phonetic)  
19 Consortium of Governmental -- (inaudible) --  
20 comprehensive study?

21 A Is it Franklin Kremel (Phonetic)?

22 Q Yes.

23 A The Kremel report, as it was known, yes, I did read  
24 that.

25 Q Did the Kremel report touch on confederacy on the KKK on

1 | white supremacy?

2 | A I read it 30 years ago. I don't remember what it said.

3 EXAMINATION

4 BY MS. MOTLEY:

5 Q Why did you promote John Bosesavich during the  
6 investigation of him hosting two of these racist  
7 parties?

8 A I think the investigation was then over, it was put  
9 aside, you know, after that. When he hosted the parties  
10 he was a sergeant. He got reassigned, and he was  
11 disciplined by the commissioners prior to me getting  
12 there. And then, you know, when I worked with him, he  
13 admitted his involvement and apologized for everything  
14 he had done. He had said that he was to blame, and he  
15 offered to resign, I believe, if that would make things  
16 easier on everybody else. He was a smart guy, and  
17 admitted his problem. John Bosesavich was not a racist  
18 guy, I think it was the typical late-shifters, too much  
19 time on their hands and they are just looking for  
20 something to goof off.

21	Q	Is it racist to wear black face?
----	---	----------------------------------

22 | A It certainly is.

23	Q	Have you ever --
----	---	------------------

24	A	I have never.
----	---	---------------

25	Q	-- worn black face?
----	---	---------------------

1 THE COURT REPORTER: You need to slow down.

2 EXAMINATION

3 BY MR. SCHWAB:

4 Q Have you ever worn black face?

5 A I never have.

6 Q Have you ever been to a party where someone wore black  
7 face?

8 A No.

9 Q Would you ever go to a party where someone wore black  
10 face?

11 A I would not.

12 Q Would you --

13 MS. KNOWLTON: Take a breath. You just keep  
14 going really fast which makes it really hard.

15 BY MR. SCHWAB:

16 Q Were you ever associated with someone who wears black  
17 face?

18 A Not to my knowledge.

19 Q Do you think that trust from the community is important  
20 in police officers?

21 A Yes.

22 Q Do you believe that black people could ever trust this  
23 officer based on his conduct?

24 A Which officer?

25 Q Bosesavich.



1 A Yes.

2 EXAMINATION

3 BY MS. MOTLEY:

4 Q Did you even take into consideration how the black  
5 community would feel about you promoting an officer who  
6 through two racist parties and who was promoted while  
7 you were the police chief?

8 A Yes.

9 Q And you still promoted him?

10 A Absolutely.

11 Q Is it racist to -- would you ever go to an MLK party?

12 A I would not.

13 Q Why not?

14 A I don't do that.

15 Q What does that mean, you don't do what?

16 A I don't believe in going to racist parties, and I would  
17 not go to one.

18 Q Do you believe that people that throw racist parties are  
19 racist?

20 A I believe that people can change or they can make a  
21 mistake. After that particular, Bosesavich, after this  
22 whole thing was over, we went to sensitivity training,  
23 and he went to the classes, I believe on racial  
24 discrimination or whatever, back then what was offered.  
25 So he was a smart guy, admitted his problem, I don't

1 think he was racist. After he left our employment, he  
2 worked for the U.S. Government and he was assigned to  
3 Iraq for a number of years, working with their military.

4 Q So do you think -- you didn't know John Bosesavich Long  
5 before you promoted him, correct?

6 A I don't remember what year he was promoted.

7 Q He was promoted in 1990 during the investigation by you.

8 A To what rank?

9 Q I believe it was lieutenant.

10 A I don't know when he was promoted because I came in  
11 1990, and I don't think I promoted him the first year  
12 because he was --

13 Q You did.

14 A It was probably toward the end of the year.

15 Q So you just met this man, so how do you think he  
16 changed?

17 A I had conversations with him, and I looked at the way  
18 that whole incident was handled and what the police and  
19 fire commission said. And before I could even get him  
20 promoted, that has to be approved by the police and fire  
21 commission. They signed off on it, and we promoted him.  
22 Later on, I don't know how many years it was, he was  
23 promoted to the rank of captain.

24 Q You've mentioned that many Detective Chauvin who  
25 murdered George Floyd is not racist. You've also

1 mentioned that John Bosesavich who hosted two racist  
2 parties is also not racist.

3 A In my opinion.

4 Q In your opinion. What makes a racist person? How do  
5 you classify a person is racist?

6 A I think people who demonstrate a continuous bias toward  
7 people and are unwilling to change and try to make the  
8 decisions, how they deal with somebody based on their  
9 race. I think that would indicate that they might have  
10 some racist tendencies. I also believe people can  
11 change. I think people make stupid mistakes sometimes.

12 EXAMINATION

13 BY MR. SCHWAB:

14 Q Are there stupid mistakes that disqualify someone from  
15 being a police officer?

16 A Sure.

17 Q How many officers were at these parties?

18 A Again, I wasn't there. I think there was probably, it  
19 was involving the late shift at the time, but not  
20 everybody participated, I'm guessing six to eight  
21 people.

22 Q Is it possible it was 17?

23 A I don't know.

24 Q Did you promote other officers who wore black face?

25 A I don't know who wore black face.

1 Q Did you promote other officers who went to these, as you  
2 termed them, racist parties?

3 A Lieutenant Zalewski (Phonetic) was the late shift  
4 supervisor at that time, and the police and fire  
5 commission demoted him to the rank of sergeant after  
6 this because they felt he was in charge. I've always  
7 felt that it is better than demote somebody, if their  
8 behavior was that big, you might as well just terminate  
9 him otherwise then you still have a problem. So over a  
10 period of time Zalewski also worked hard. I don't think  
11 he was a racist person. And ultimately, I went back to  
12 the commissioners and asked them him to be promoted to  
13 lieutenant and restore his rank, which they did.

14 Q Did you ever speak to the leaders in the community about  
15 these events?

16 A About the Martin Luther King?

17 Q Yes.

18 A I probably did at the time.

19 Q You don't recall if you had a meeting with a pastor or  
20 with a community leader?

21 A From 30 years ago, I don't recall.

22 Q This is right when you started, you said this was all  
23 that you did your first year, was dealing with the  
24 racism of your department.

25 A Right.

1 Q You don't remember if you met with leaders of the black  
2 community?

3 A I remember I met with a pastoral alliance that included  
4 a bunch of different people. Again, I said that  
5 Bosesavich and I went to sensitivity training down in  
6 Chicago.

7 Q On the day you first became the chief of police --

8 THE COURT REPORTER: Wait, on the day you  
9 first became police chief --

10 BY MR. SCHWAB:

11 Q Were there racists in the Wauwatosa Police Department?

12 A There were people that attended those parties, whether  
13 or not you would label them a racist, I wouldn't know  
14 that now.

15 Q Are you afraid to call a police officer a racist?

16 A I am not afraid to call anybody anything.

17 Q When was the last day there was a racist in the police  
18 department?

19 A I would not know that.

20 EXAMINATION

21 BY MS. MOTLEY:

22 Q Do you know Detective Chauvin?

23 A From Minneapolis?

24 Q Yes.

25 A I do not.

1 Q Did you learn about Detective Chauvin based on the  
2 George Floyd incident?

3 A Yes.

4 Q Do you have any other frame of reference with regards to  
5 him?

6 A Just what I saw.

7 Q So you've only seen Detective Chauvin essentially murder  
8 George Floyd, and you've have come to the conclusion  
9 he's not racist?

10 A In my opinion, what I saw without talk to him, because  
11 remember what I said --

12 Q How about, I don't know if he's racist?

13 A I don't know if he's racist.

14 Q Right, but you're saying he's not racist.

15 A Let me just say, I believe that he was so arrogant and  
16 uncaring for people he would have treated anybody the  
17 same way because we say the nonchalance and arrogance in  
18 the way he behaved that day.

19 Q Why do you believe that?

20 A It is just what I saw.

21 Q You saw him murder a black guy.

22 A And I think he would have done the same thing to a white  
23 guy.

24 Q But he didn't, did he?

25 A He didn't.

1 Q But you've come to the conclusion what he isn't?

2 A Just from what I saw, I think he was that pompous and

3 arrogant he would have done it to anybody.

4 Q So he murdered him because he was arrogant?

5 A I don't think he cared about the race, I think that was

6 the way Chauvin was. This is my opinion just based on

7 what I saw, we can argue it all you want to, but that is

8 just my opinion.

9 Q What about Howard Bacon (Phonetic), he's the one that

10 fired a gun next to the desk of the whistleblower for

11 the MLK parties, was he racist?

12 A I don't think so.

13 Q How long did he stay with the police department?

14 A He retired when he was about 53, I think, or 55, and

15 then he came back and worked part-time for us just as an

16 equipment officer, and he would just make sure the cars

17 are repaired right, or the station, things got repaired,

18 things like that, part-time.

19 Q So he quit in good standing also?

20 A As a police officer, or --

21 Q As a police officer?

22 A He retired in good standing.

23 Q As an employee, did he leave in good standing?

24 A He left at my request.

25 Q What year was that?

1 A That would be 2021.

2 Q This year?

3 A Yes.

4 Q Why did you tell him to leave?

5 A He had made an inappropriate comment to a civilian  
6 community service officer.

7 Q What did he say?

8 A He asked for some sort of sexual act be done on him.

9 Q Did you refer that to the district attorney's office?

10 A No.

11 Q Have you ever referred any criminal misbehavior of  
12 officers to the DA's office?

13 A Yes.

14 Q When?

15 A Well, the one I gave earlier, when we had the  
16 40-year-old cop with the 17-year-old, that went to the  
17 district attorney's office.

18 Q Which DA, that would have been Chisolm?

19 A No, that would have been before Chisolm.

20 MS. KNOWLTON: McCann.

21 THE WITNESS: McCann's office, I think at that  
22 point, a lot of times the district attorney's opinion  
23 is, as long as the guy leaves, you know, if you're  
24 firing him or whatever, okay; but if he was staying on  
25 and you are not doing anything, maybe we would look at



that one. Slagle (Phonetic) was fired. I think anytime we've had a shooting incident involving a police officer, that gets referred to the DA to look at, because there was -- there was one other shooting incident prior to the Mensah ones.

BY MS. MOTLEY:

Q Do you remember when that was?

A It was -- Dave Moldenauer (Phonetic) was the cop, he responded to an incident where a guy was threatening, I don't know if he was threatening a family member with a rifle, and he came out on the porch and threatened the officer with it.

## EXAMINATION

BY MR. SCHWAB:

Q Do you know if Wauwatosa used to feel exclusionary zoning?

A What does that mean?

Q Blacks can't live here.

A Yes.

Q Did Wauwatosa have segregation?

A I just heard about this probably in the last six months when it first became (inaudible) -- because I lived in Wauwatosa from 1990 up until six years ago, I never knew any of that.

MR. SCHWAB: Do you want to take a five-minute

1 break?

2 MS. KNOWLTON: Do you have anything else?

3 MR. SCHWAB: That is really the whole point.

4 BY MR. SCHWAB:

5 Q Have you ever filed a complaint with the OLR?

6 A With who?

7 Q With the OLR.

8 A What does "OLR" stand for.

9 Q Office of Lawyer Regulations.

10 A Yes.

11 Q How many times?

12 A Once.

13 Q Can you tell me about that time?

14 A It was last fall.

15 Q What day?

16 A I don't remember the date.

17 Q What was the basis of that?

18 A I was complaining about Attorney Motley.

19 Q Who did you talk with about it?

20 A I contacted the OLR people, and I said, "what do I need  
21 to do? They said, "here is what you need to do," so I  
22 filed it in writing.

23 Q What were you hoping to get out of that?

24 A What was I hoping?

25 Q Yeah.

1 A I just wanted some of the issues that I think have been,  
2 mistreatment of myself and I think were inappropriate,  
3 and I wanted some sort of sanctions put in, or some sort  
4 of order that says you can't -- you can't say all of  
5 those things.

6 Q Do you feel thin skin?

7 A I don't.

8 Q What was the result of the OLR complaint?

9 A Just like I expected, nothing.

10 Q Just like when officers host black face parties?

11 MS. BAYNARD: Objection to form of the  
12 question.

13 BY MR. SCHWAB:

14 Q Did you talk with anyone outside of the OLR about your  
15 filing?

16 A I probably told Alan Kesner that I did it, but I don't  
17 -- I didn't really ask him his opinion. I just said,  
18 I'm doing it.

19 Q Did you share your complaint with anyone?

20 A Probably.

21 Q Who?

22 A I probably informed some of the officers in my  
23 department that I was doing it.

24 Q Have any other officers filed any complaints?

25 A Not that I'm aware of.

1 Q Have you suggested that they do so?

2 A No.

3 Q Have you suggested that anyone do so?

4 A No.

5 Q Have you told anyone about, that this is an opportunity?

6 A No.

7 Q So you never told anyone that they should file an OLR  
8 complaint?

9 A No.

10 Q And you have never told anybody that they can file an  
11 OLR complaint?

12 A I don't think I have.

13 Q And the only people you've talked with about are Alan  
14 Kesner and some nameless police officers?

15 A Probably.

16 Q Do you know if those people have spoken about it?

17 A I don't know.

18 Q Why did you share it with the police officers?

19 A I think the police officers have seen some of the  
20 activities that have happened in our city and are  
21 frustrated too. I don't think we are thin skinned, as  
22 you allege.

23 Q Is it retaliation?

24 A I don't think so.

25 Q Is it to get back at people?

1 A No.

2 Q Tell me about other complaints, you filed an OLR  
3 complaint against Attorney Motley, you tried to get  
4 Representative Bowen removed from office, is that  
5 correct?

6 A Sanctions, correct.

7 Q Who else have you sought sanctions against?

8 A David Bowen.

9 Q The only people who criticized your conduct?

10 A (Inaudible).

11 THE COURT REPORTER: Hang on. "The only  
12 people who criticized your conduct," I am sorry.

13 BY MR. SCHWAB:

14 Q So two people who criticized your job performance?

15 A David Bowen did not criticize my job performance.

16 Q No?

17 EXAMINATION

18 BY MS. KNOWLTON:

19 Q What did he do?

20 A I don't believe he did. David Bowen was also outside my  
21 house, David Bowen was also there when Mensah -- the  
22 shooting was at Mensah's house, and David Bowen told  
23 people to lie about what happened at Mensah's house.

24 EXAMINATION

25 BY MR. SCHWAB:

1 Q Is David Bowen a criminal?

2 A In my opinion?

3 Q Yes.

4 A In my opinion, I think he is.

5 Q And you are the chief of police in the City of  
6 Wauwatosa?

7 A Right.

8 Q I would say you are probably -- would you classify  
9 yourself as an expert on what is criminal and what is  
10 not?

11 A I would call David Bowen, if you're asking me my opinion  
12 --

13 Q Yeah.

14 A I don't publicly say what my opinion is about him, but  
15 if you're asking me here and I'm under oath, I think he  
16 is a criminal.

17 Q What crimes did he commit?

18 A He lied about what happened at Mensah's house.

19 Q What crime is that?

20 A He put it on his state stationary and gave a press  
21 release, he would not give us any statements at all, but  
22 he lied about what happened at that time. So is there  
23 enough to charge him? No.

24 Q If I come forward and I say, "I would like to file a  
25 complaint with the police department, David Bowen lied

1 on a press release -- "

2 A Right.

3 Q -- what statute do you pull up?

4 A I don't pull up anything, you're asking me my opinion.

5 Q I know, but doesn't -- to be a criminal, don't you have  
6 to have committed a crime?

7 A I'd he committed a crime and I could get him charged, I  
8 would do that.

9 Q Really?

10 A I would.

11 Q Do you charge everybody single person you can charge  
12 with a crime?

13 A If I could charge him with a crime for the lying that he  
14 did in the Mensah case which caused a lot of  
15 consternation in our department, but I knew that wasn't  
16 going to happen in Milwaukee County so I sought relief  
17 through the speaker of the house, and they're not going  
18 to do anything either. It's just the way it goes.

19 Q You if you could would bring criminal charges against  
20 David Bowen because of his conduct and how it has  
21 affected your department?

22 A And how it's affected me.

23 Q And how it's affected you?

24 A He was at my house.

25 Q That's in your position as the chief police?

1 A That's why he was at my house, and that was illegal,  
2 what they did.

3 Q Tell me, you said that there were criminals, everyone  
4 outside of your house was criminals who --

5 A Some people.

6 Q How many?

7 A I've got a video of it, there's probably a dozen people  
8 out there.

9 Q How many total people were out there?

10 A Different times, maybe two dozen.

11 Q What was the racial makeup?

12 A It was mixed.

13 Q Okay. Were the criminals mixed as well?

14 A Probably.

15 Q Could you identify, these were the 12 criminals?

16 A No.

17 Q What crimes did they commit?

18 A They were disorderly, they were disrupted my  
19 neighborhood and my family, so unfortunately the way  
20 that our statutes are there's not much that can be done  
21 about that. I think if it was to happen again, of  
22 course I don't live in Milwaukee County, I think it  
23 would be handled differently in Washington County, and I  
24 think David was told that by the police department.

25 Q Is Washington County much more conservative?



1 A I think so.

2 Q Is that why it would be handled differently?

3 A Probably.

4 Q Is Washington County more white?

5 A I don't know what the racial makeup is.

6 EXAMINATION

7 BY MS. MOTLEY:

8 Q You mentioned that David Bowen refused to cooperate with  
9 the Wauwatosa Police Department, what do you mean, he  
10 "refused"?

11 A He made allegations about what happened at Mensah's  
12 house and told somebody to lie. We got a statement from  
13 the person who he told to lie, by David Bowen. David  
14 Bowen did not make statements to us. We said, "hey, if  
15 you've got this knowledge about what happened at  
16 Mensah's house," he said, "no, no, Mensah fired the  
17 shot," and everything else. If you have the knowledge,  
18 make a statement to us so we can investigate it. He  
19 would not do that.

20 Q So he refused by not answering the questions of the  
21 Wauwatosa Police Department?

22 A He never interviewed with us at all.

23 Q Do you think it was a crime for David Bowen to put on  
24 his -- as a public official, to put on his letterhead  
25 statements that you believe were false?

1 A Apparently it is not a crime, but if you ask me my  
2 opinion, I think it is. I think it's criminal that  
3 somebody would take an oath to be in office as a  
4 legislature and would say that he's going to do what he  
5 has to do and to uphold the constitution and so on --

6 Q As a law enforcement officer, do you take an oath of  
7 office?

8 A I do.

9 Q And you wrote a letter of recommendation for Joseph  
10 Mensah, correct?

11 A Yes.

12 Q In that letter you stated that Jay Anderson refused to  
13 put down his weapon?

14 A Yes.

15 Q And that is a lie, correct?

16 A No.

17 Q You just said "refused" means "did not." So do we have  
18 a new definition of "refuse" when it comes to you?

19 A No, we've heard this before, but Anderson was armed --

20 MR. SCHWAB: Was he holding a --

21 BY MS. MOTLEY:

22 Q Hold up --

23 THE COURT REPORTER: Wait.

24 BY MS. MOTLEY:

25 Q You just said he refused to put down his weapon. That

1 is what you wrote on your letterhead as a public  
2 official.

3 A I can write any letter of recommendation that I want for  
4 Mensah, and I did. I believe, in my opinion Anderson  
5 was armed, could have had really good access to that  
6 weapon, whether it was on the console or the seat next  
7 to him. And Mensah saw it and told him, don't reach for  
8 the weapon. He went for the weapon. He said, don't do  
9 it, don't do it --

10 Q And you lied in your letter --

11 A I did not lie in my letter.

12 Q Really?

13 A (Inaudible).

14 Q What does, "he refused to do something" mean to you,  
15 what does that term mean to you? If you refuse to do  
16 something, what does that phrase mean?

17 A In the context of this --

18 Q No, I'm asking you: What does refusing to do something  
19 --

20 A Not complying, I don't know.

21 Q Okay. So David Bowen refused to talk to your officers,  
22 correct?

23 A Correct.

24 Q And he didn't comply?

25 A He did not.

1 Q Right. So you claimed Jay Anderson refused to put down  
2 his weapon, which indicates that his weapon was up,  
3 correct?

4 A Not necessarily, he was -- he had access to the weapon.  
5 The officer said, "don't reach for it, I see it," and  
6 Anderson kept making the motions for it, it only takes a  
7 second to do that. He said, "don't do it," and then you  
8 saw the motion where he went for the weapon and that is  
9 when he was shot.

10 Q Are you ever wrong?

11 A Am I?

12 Q Yes.

13 A More than I would like to admit.

14 Q When was the last time you were wrong?

15 A My wife could probably answer the question easier, I  
16 don't know.

17 EXAMINATION

18 BY MR. SCHWAB:

19 Q When is the last time you were wrong in your  
20 professional capacity?

21 A I don't know. Probably, you know, there is many times  
22 where I've made mistakes. I am not perfect, try to do  
23 things the right way, and that is what I do.

24 EXAMINATION

25 BY MS. MOTLEY:

1 Q Did you tell Dominic Leone about your OLR complaint?

2 A I don't know if I did.

3 Q Did Alan Kesner talk to Dominic Leone about OLR?

4 A I don't know if Alan did. I told Alan that I was filing  
5 a complaint.

6 Q Did you tell the mayor also?

7 A Probably.

8 Q Did you tell Chris Smith?

9 A I don't know Chris Smith, I know he's a lawyer for the  
10 commission, but I don't talk to him. I don't know him.

11 Q But you don't remember if you told Dominic Leone?

12 A I may have.

13 Q Did you tell anyone about the results of the complaint?

14 A Probably.

15 Q Do you know if you told Alan Kesner the result?

16 A Yes, I think I did.

17 Q Did you tell Dominic Leone the result?

18 A I don't know.

19 Q What about Mayor McBride?

20 A I don't know.

21 Q When you communicate with Alan Kesner, do you do so by  
22 phone?

23 A Yes.

24 Q Do you ever communicate with him by e-mail?

25 A Almost never.

1 Q By text message?

2 A No.

3 Q With Dominic Leone, do you communicate with him by  
4 e-mail?

5 A Not usually.

6 Q Sometimes?

7 A Very rarely.

8 Q Okay. What about Mayor McBride, how do you communicate  
9 with him?

10 A Just by the phone, or sometimes in person.

11 Q Never by e-mail?

12 A I try not to.

13 Q But sometimes it happens?

14 A Usually not by my part.

15 EXAMINATION

16 BY MR. SCHWAB:

17 Q (Inaudible)?

18 A Because all the e-mails and text messages are  
19 discoverable. It is like they get taken out of context,  
20 I don't like to e-mail people normally anyway because,  
21 you know, the tone of your message, it is always, "were  
22 you mad at me when you said that or what," so I have  
23 never liked that. Even with my son, it is always like,  
24 you know, it is just like, "stop texting me, just call  
25 me. If you want to talk to me, stop e-mailing and stop

texting me. Just call, I would rather talk. I would rather talk to a person rather than social media.

## EXAMINATION

BY MS. MOTLEY:

Q How many special orders did you create in relation to the protesting and the curfews of last year?

A      Probably a bunch, I don't know how many there would be.

Q Six -- like, estimate.

A I don't know. I get so many things that say, hey, we need you to sign this, sign this. I feel like Henry Blake in MASH sometimes. Hey, sign this, what is it, it is a special order regarding -- okay, fine, just give me it.

Q But you did sign several special orders?

A Probability.

Q Who normally authors those special orders?

A The captain usually does, or they will give them to my secretary, Mary, and say, I need a special order regarding this. She will document the appropriate number and do the index and so on.

MS. MOTLEY: Okay.

## EXAMINATION

BY MR. SCHWAB:

Q Have your views on policing in America changed in the last year?

1 A My views, no, not too much.

2 Q Have you learned anything negative about policing in the  
3 last year?

4 A It's hard to answer, my views haven't changed much, and  
5 I have always tried to -- I have always felt, I have  
6 always felt that law enforcement officers do the right  
7 things, and we -- we do the right things and we're good  
8 people. Even as I am getting ready to exit my career, I  
9 have told officers that, you know what, you just stay  
10 the course and do what you think is right.

11 Q So when you're investigating an officer for something,  
12 you start from the belief that they're a good person?

13 A If they weren't good I wouldn't hire them to begin with.

14 Q Is that how you instruct your officers to approach every  
15 investigation, that a person that has been accused is a  
16 good person?

17 A Innocent until proven guilty.

18 Q That is not what I asked.

19 A That's the standard.

20 Q Do you believe that people are good unless -- well, is  
21 that how you approach every investigation whether it is  
22 a police officer or not?

23 A I personally believe people are generally good. I would  
24 like to believe that, unless they prove otherwise.

25 Q Do you believe that there are people out there that are



1 bad guys?

2 A Yes.

3 Q Who?

4 A Violent criminals, people that commit crimes against  
5 children, people that are ones that are going to steal  
6 somebody's -- you know, an armed robbery.

7 Q Is Derek Chauvin a bad person?

8 A He's a convicted felon.

9 Q Is he a bad person?

10 A In my opinion, yeah.

11 Q Did you, after watching that video, wonder if you had  
12 any bad people on your force?

13 A No.

14 Q Not even questioned it?

15 A No, all our people that I talked to were outraged by  
16 what they saw also.

17 EXAMINATION

18 BY MS. MOTLEY:

19 Q Why was Officer Mensah off of work for most of December  
20 2019?

21 MS. BAYNARD: Objection, relevance. Go ahead.

22 THE WITNESS: From what in '19?

23 BY MS. MOTLEY:

24 Q December 2019, two months before he killed Alvin Cole.

25 A I don't know why he was off at that time. He was off

1 after the Cole incident on February 2nd, other than that  
2 I'm not sure.

3 Q Do you recall several officers saying that they didn't  
4 want to punish Officer Mensah for his car accident  
5 because of the personal problems he was going through in  
6 December of 2019?

7 A I don't remember that.

8 Q What personal problems has Officer Mensah had?

9 MS. BAYNARD: Objection, speculation. Go  
10 ahead.

11 THE WITNESS: I don't know the problems he  
12 has.

13 BY MS. MOTLEY:

14 Q Did you ever talk to him?

15 A Not about his personal problems -- (inaudible) -- I do  
16 not.

17 Q Has he ever talked to you about, you know, what has been  
18 happening with the protests?

19 A Nothing specific, I don't have that type of relationship  
20 with patrol officers usually.

21 Q What kind of relationship do you have with them?

22 A Professional.

23 Q Did you advise him not to quit Wauwatosa Police  
24 Department?

25 A I did not.

1 EXAMINATION

2 BY MR. SCHWAB:

3 Q Did you want him to be on your force?

4 A Those are decisions that the police officers themselves  
5 make, you know, I deal with the hand that I'm dealt, and  
6 if he was going to stay on the department, then as long  
7 as he can performed the job, that is what I care about.

8 Q Is that what you wanted?

9 A I am sorry?

10 Q Is that what you wanted, for him to remain the force?

11 A I wanted him to do what is best for him and for our  
12 organization.

13 EXAMINATION

14 BY MS. MOTLEY:

15 Q Do you know if Officer Mensah was on any medications?

16 A I don't.

17 Q Do you know if Officer Mensah was diagnosed with any  
18 mental issues?

19 A Not to my knowledge.

20 Q Do you wish he was still on your police force?

21 A I mean to say that I'm relieved that he's working  
22 somewhere else just because I think he probably needed a  
23 change, and it's probably good for our organization too,  
24 but I thought he was a good police officer that was  
25 faced with some very difficult circumstances.

1 Q Did Officer Mensah ever lie to you or any other members  
2 of the Wauwatosa Police Department?

3 A I don't know if he ever lied to me. I don't think so.

4 Q Do you know if he lied to any other members of the  
5 Wauwatosa Police Department?

6 A No.

7 Q How would you feel if he's charged in the Jay Anderson  
8 shooting?

9 MS. BAYNARD: Objection, relevance.

10 THE WITNESS: Can I answer that?

11 MS. BAYNARD: Yeah.

12 THE WITNESS: If he's charged, how I would  
13 feel. I would be disappointed because I thought he did  
14 the right thing.

15 EXAMINATION

16 BY MR. SCHWAB:

17 Q What is the goal of the Wauwatosa Police Department?

18 A The goal, I think that would go to what our mission is,  
19 it is to preserve life and property, to detect crimes,  
20 keep the streets safe for people.

21 Q And are the members or police officers of the Wauwatosa  
22 Police Department, are they members of the community or  
23 do they oversee the community?

24 A I think there's both.

25 Q Are they outside of the community?

1 A Are you talking about where they live?

2 Q No, are they above maintaining the community?

3 A I think we have a very -- I have always had a very  
4 interactive community support function where we've done  
5 community policing, probably we have done more community  
6 policing than most agencies around us over the years.  
7 We've always had a lot of support from our city, and we  
8 have always done a lot of outreach programs.

9 EXAMINATION

10 BY MS. KNOWLTON:

11 Q Do you remember in watching on Saturday night about --  
12 of my arrest, do you remember seeing that at all?

13 A Your specific arrest?

14 Q Yeah.

15 A No.

16 Q But you reviewed that arrest record, or I guess the  
17 description of what happened that --

18 A I read the report which was a very brief report.

19 Q Okay. And if you would have heard me ask how I can get  
20 through to go home, would you have arrested me?

21 A If you were just asking how to get home, I would have  
22 said go this way or whatever, go home, I probably  
23 wouldn't have.

24 Q Okay.

25 EXAMINATION

1 BY MR. SCHWAB:

2 Q Is the Wauwatosa Police Department militaristic?

3 A All police departments operate under that quasi-military  
4 style.

5 Q Do any of your officers see themselves as an occupying  
6 force in Wauwatosa?

7 A I don't think so.

8 Q What do you think people's response is when they see  
9 military vehicles and SWAT gear?

10 A Usually when that happens people want to know, what is  
11 going on, what is going on here? Unfortunately, just  
12 the nature of our city -- for instance, last weekend we  
13 were involved in a number of shootings in our city,  
14 gunshots, we arrested a bunch people for having guns,  
15 car thefts, chases.

16 Q And you responded with armored vehicles?

17 A We don't have any armored vehicles.

18 Q Do you respond with SWAT gear?

19 A I think on occasion we do.

20 Q To those shootings?

21 A I'm not sure on those, but if you have somebody who is  
22 barricaded or an active shooter, then we would.

23 Q Was the intent of wearing armored gear or bringing  
24 armored vehicles to intimidate protesters?

25 A I think all of our intentions are to make it safe for

1           our people.

2       Q     Is there any intention of intimidation as well?

3       A     I have never been one to intimidate people, it's always  
4           been about keeping everybody safe.

5                               EXAMINATION

6           BY MS. MOTLEY:

7       Q     Do you think arresting people for tickets is keeping the  
8           community safe?

9       A     I think if people violate the law, and if we feel that a  
10          ticket is warranted, then one should be issued.

11      Q     Does it keep the community safe?

12      A     In some cases it will, in some cases it won't, everybody  
13          responds differently.

14                               EXAMINATION

15          BY MR. SCHWAB:

16      Q     Do you set the ticket amount?

17      A     No.

18      Q     Have you ever done that?

19      A     I don't, I have never done that.

20                               (A recess was taken.)

21                               EXAMINATION

22          BY MS. BAYNARD:

23      Q     I just have a quick follow up. Earlier today we talked  
24          a lot about threats of violence that occurred prior to  
25          the issuance of the October 20th curfew. Do you recall

1 discussing that throughout today?

2 A Yes.

3 Q Okay. And I don't know if we really have gone into  
4 detail about it, but we've also talked an incident that  
5 happened at Officer Mensah's house in August of 2020, do  
6 you recall talking about that today?

7 A Yes.

8 Q Do you consider the incident that happened at Officer  
9 Mensah's house in August of 2020 as a credible threat of  
10 violence?

11 A Yes.

12 Q Why is that?

13 A Well, people went to Mensah's house with the intention  
14 to harass him and threaten him, and there was a shot  
15 fired in his direction at his house. So it appeared  
16 that there was going to be -- you know, a likelihood  
17 that more violence may occur in the future because of  
18 what happened that night.

19 MS. BAYNARD: Okay. I don't have anything  
20 else.

21 EXAMINATION

22 BY MR. SCHWAB:

23 Q Let me ask one follow up on that. If I was going to  
24 organize a protest against the Mensah murders this week,  
25 would that August shooting be a credible threat to



1 permit the city to enforce a curfew to stop protests?

2 A When you say if you're going to organize something, you

3 mean as

4 of today?

5 Q Yes, if I was going to organize next week.

6 A No, I don't think so.

7 EXAMINATION

8 BY MS. MOTLEY:

9 Q With regards to the incident at Mensah's house, that was  
10 a credible threat of violence against him, correct?

11 A Yes.

12 Q Does he live in Wauwatosa anymore?

13 A He does not.

14 Q Okay. Do you recall when he moved from Wauwatosa?

15 Well, it doesn't matter. That was a bad question. I  
16 don't know how you would know that. That's it.

17 EXAMINATION

18 BY MS. BAYNARD:

19 Q One last question: Was the purpose of the curfew of  
20 October -- of the October 2020 curfew to stop  
21 protesting, stop protesters?

22 A No. We didn't -- we had -- no, didn't care about  
23 protestors, I was concerned about violent protesting.

24 EXAMINATION

25 BY MS. MOTLEY:

1 Q Was the purpose of the October 2020 curfew to stop  
2 protesting during that week after 7:00 p.m.?

3 A Yes.

4 EXAMINATION

5 BY MR. SCHWAB:

6 Q Were any protesters arrested for violating the curfew  
7 that were not violent?

8 A Were any protesters arrested under the --

9 Q Under the curfew who were not violent?

10 A I believe that is true.

11 MR. SCHWAB: That's it.

12 MS. BAYNARD: I don't have anything else.

13 (The above proceedings concluded at 5:53 p.m.)

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